

NORTH BAY WATER REUSE PROGRAM ACT OF 2007

DECEMBER 4, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 236]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 236) to authorize the Secretary of the Interior to create a Bureau of Reclamation partnership with the North Bay Water Reuse Authority and other regional partners to achieve objectives relating to water supply, water quality, and environmental restoration, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “North Bay Water Reuse Program Act of 2007”.

SEC. 2. PROJECT AUTHORIZATION.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

“SEC. 16 _____. NORTH BAY WATER REUSE PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a member agency of the North Bay Water Reuse Authority of the State located in the North San Pablo Bay watershed in—

- “(A) Marin County;
- “(B) Napa County;
- “(C) Solano County; or
- “(D) Sonoma County.

“(2) WATER RECLAMATION AND REUSE PROJECT.—The term ‘water reclamation and reuse project’ means a project carried out by the Secretary and an eligible entity in the North San Pablo Bay watershed relating to—

- “(A) water quality improvement;
- “(B) wastewater treatment;

- “(C) water reclamation and reuse;
 - “(D) groundwater recharge and protection;
 - “(E) surface water augmentation; or
 - “(F) other related improvements.
- “(3) STATE.—The term ‘State’ means the State of California.
- “(b) NORTH BAY WATER REUSE PROGRAM.—
- “(1) IN GENERAL.—Contingent upon a finding of feasibility, the Secretary, acting through a cooperative agreement with the State or a subdivision of the State, is authorized to enter into cooperative agreements with eligible entities for the planning, design, and construction of water reclamation and reuse facilities and recycled water conveyance and distribution systems.
- “(2) COORDINATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Secretary and the eligible entity shall, to the maximum extent practicable, use the design work and environmental evaluations initiated by—
- “(A) non-Federal entities; and
 - “(B) the Corps of Engineers in the San Pablo Bay Watershed of the State.
- “(3) PHASED PROJECT.—A cooperative agreement described in paragraph (1) shall require that the North Bay Water Reuse Program carried out under this section shall consist of 2 phases as follows:
- “(A) FIRST PHASE.—During the first phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the main treatment and main conveyance systems.
 - “(B) SECOND PHASE.—During the second phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the sub-regional distribution systems.
- “(4) COST SHARING.—
- “(A) FEDERAL SHARE.—The Federal share of the cost of the first phase of the project authorized by this section shall not exceed 25 percent of the total cost of the first phase of the project.
 - “(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the completion of the water reclamation and reuse project, including—
 - “(i) reasonable costs incurred by the eligible entity relating to the planning, design, and construction of the water reclamation and reuse project; and
 - “(ii) the acquisition costs of land acquired for the project that is—
 - “(I) used for planning, design, and construction of the water reclamation and reuse project facilities; and
 - “(II) owned by an eligible entity and directly related to the project.
 - “(C) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.
- “(5) EFFECT.—Nothing in this section—
- “(A) affects or preempts—
 - “(i) State water law; or
 - “(ii) an interstate compact relating to the allocation of water; or
 - “(B) confers on any non-Federal entity the ability to exercise any Federal right to—
 - “(i) the water of a stream; or
 - “(ii) any groundwater resource.
- “(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Federal share of the total cost of the first phase of the project authorized by this section \$25,000,000, to remain available until expended.”.
- (b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the last item relating to title XVI the following:
- “Sec. 16 _____. North Bay water reuse program.”.

PURPOSE OF THE BILL

The purpose of H.R. 236, as amended by the Committee on Natural Resources, is to amend the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI), to authorize the Secretary of the Interior to provide limited financial assistance for the planning, design, and construction of water reclamation and reuse facilities and recycled water convey-

ance and distribution systems, primarily to serve agricultural water users in eastern Marin and southern Sonoma counties, California.

BACKGROUND AND NEED FOR LEGISLATION

The North Bay region of northern California has very limited surface and groundwater supplies. The area is not served by state or federal water projects and the local groundwater basin is declining. Urban, agricultural and environmental demands exceed the region's ability to provide a reliable, sustainable and economical water supply, especially for local agriculture (mostly vineyards for wine grapes). In addition, communities will eventually be forced to curtail their discharges of treated wastewater into San Pablo Bay.

The North Bay Water Reuse Authority was created as a Joint Powers Authority to address these challenges. The Authority is a consortium of sanitation agencies and water suppliers in Marin, Sonoma and Napa counties.

The Authority is now studying a large regional project that will collect municipal wastewater, treat it at several new and upgraded treatment plants, and recycle the water via a pipeline distribution system to irrigate vineyards in the project service area. When complete, the regional system is expected to develop about 30,000 acre-feet per year of recycled water for agriculture. Farmers taking recycled water from the project must agree to reduce their use of surface water supplies by the amount of recycled water they receive.

When demand for irrigation water is low during the winter months, the recycled water will be used to help flush out abandoned salt evaporation ponds at the north end of San Pablo Bay. The ponds will eventually be converted to wetland habitat.

H.R. 236 as amended authorizes the Secretary of the Interior, contingent upon a finding of feasibility to provide cost-shared financial assistance, to create a partnership between the Bureau of Reclamation and the North Bay Water Reuse Authority and other regional partners. This funding is to be used for the planning, design, and construction under the Bureau of Reclamation's "Title XVI" water recycling and reuse program.

The legislation authorizes appropriations of \$25,000,000 as the maximum federal share of the capital costs for the first phase of the project.

COMMITTEE ACTION

H.R. 236 was introduced on January 4, 2007 by Rep. Mike Thompson (D-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On May 17, 2007, the Subcommittee held a hearing on the bill. On October 16, 2007, the Subcommittee met to mark up the bill. Subcommittee Chairwoman Grace Napolitano (D-CA) offered an amendment in the nature of a substitute to clarify certain language in the bill. The amendment modifies the bill by making the project part of the existing "Title XVI" water recycling program, administered by the Bureau of Reclamation. The amendment also makes Secretarial action on the project and accompanying conveyance and distribution systems contingent on a final finding of feasibility. The amendment was adopted by unanimous

consent, and the bill, as amended, was forwarded to the Full Committee on Natural Resources. On November 15, 2007, the Full Natural Resources Committee met to consider the bill. Subcommittee Chairwoman Napolitano offered an amendment in the nature of a substitute to incorporate changes made to the bill in Subcommittee markup and to include an additional clarifying provision regarding land acquisition for the project. The bill as amended was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 designates the short title of the H.R. 236, as amended, as the “North Bay Water Reuse Program Act of 2007.”

Section 2. Project authorization

Section 2 amends the Reclamation Wastewater and Groundwater Study Facilities Act to include the North Bay Water Reuse Program.

Section 2(a) defines certain terms as used in the bill.

Section 2(b)(1) authorizes participation by the Secretary of the Interior in the planning, design, and construction of water reclamation and reuse facilities, and conveyance and distribution systems, contingent upon a finding of feasibility for the project.

Section 2(b)(2) determines the project shall take into consideration design and environmental evaluations from other entities.

Section 2(b)(3) determines this to be a phased project with two parts, the first phase consisting of the main treatment plant and main conveyance systems and a second part consisting of sub-regional distribution systems.

Section 2(b)(4) limits the federal cost share to 25% of the first phase and sets out the form of non-federal in-kind services that may be counted as non-federal contributions to the completion of the project. This subsection also prohibits the use of federal funds for the operation and maintenance of the project.

Section 2(b)(5) Limits any effect of this bill on state and federal water law or rights.

Section 2(b)(6) Authorizes appropriations of \$25,000,000 for the federal share of the first phase of this project.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a compari-

son by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Secretary of the Interior to create a Bureau of Reclamation partnership with the North Bay Water Reuse Authority and other regional partners to achieve objectives relating to water supply, water quality, and environmental restoration.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 236—North Bay Water Reuse Program Act of 2007

Summary: H.R. 236 would authorize the Secretary of the Interior to enter into cooperative agreements with state entities in California to carry out water reclamation and reuse projects in the North San Pablo Bay watershed. Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 236 would cost \$25 million over the 2008–2012 period. Enacting the bill would not affect direct spending or revenues.

H.R. 236 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.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 236 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	10	15	0	0	0
Estimated Outlays	8	12	5	0	0

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the beginning of calendar year 2008 and that the necessary amounts will be appropriated for each year.

H.R. 236 would authorize the Secretary of the Interior to enter into cooperative agreements with local governments in California for the planning, design, and construction of phase I of a project to reclaim and reuse water in the North San Pablo Bay watershed in California. The project would be carried out in two phases, and

the second phase would require a subsequent authorization from the Congress.

Under the legislation, the federal share of this phase of the project would be limited to 25 percent. In addition, federal funds would not be available for operating and maintaining the project once it is completed. Assuming appropriation of the necessary amounts, CBO estimates that implementing the legislation would cost \$25 million over the 2008–2012 period.

Intergovernmental and private-sector impact: H.R. 236 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The state of California and certain county governments would benefit from the project authorized in this bill. Any costs to those governments would be incurred voluntarily.

Estimate prepared by: Federal Costs: Tyler Kruzich; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 236 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

(PUBLIC LAW 102–575)

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reclamation Projects Authorization and Adjustment Act of 1992”.

SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term “Secretary” means the Secretary of the Interior.

TABLE OF CONTENTS

Sec. 1. Short title.

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TITLE XVI—RECLAMATION WASTEWATER AND GROUND WATER STUDIES

Sec. 1601. Short title.

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Sec. 16____. *North Bay water reuse program.*

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**TITLE XVI—RECLAMATION WASTEWATER AND
GROUNDWATER STUDIES****SEC. 1601. SHORT TITLE.**

This title may be referred to as the “Reclamation Wastewater and Groundwater Study and Facilities Act”.

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SEC. 16—. NORTH BAY WATER REUSE PROGRAM.(a) *DEFINITIONS.—In this section:*

(1) *ELIGIBLE ENTITY.—The term “eligible entity” means a member agency of the North Bay Water Reuse Authority of the State located in the North San Pablo Bay watershed in—*

- (A) *Marin County;*
- (B) *Napa County;*
- (C) *Solano County; or*
- (D) *Sonoma County.*

(2) *WATER RECLAMATION AND REUSE PROJECT.—The term “water reclamation and reuse project” means a project carried out by the Secretary and an eligible entity in the North San Pablo Bay watershed relating to—*

- (A) *water quality improvement;*
- (B) *wastewater treatment;*
- (C) *water reclamation and reuse;*
- (D) *groundwater recharge and protection;*
- (E) *surface water augmentation; or*
- (F) *other related improvements.*

(3) *STATE.—The term “State” means the State of California.*

(b) *NORTH BAY WATER REUSE PROGRAM.—*

(1) *IN GENERAL.—Contingent upon a finding of feasibility, the Secretary, acting through a cooperative agreement with the State or a subdivision of the State, is authorized to enter into cooperative agreements with eligible entities for the planning, design, and construction of water reclamation and reuse facilities and recycled water conveyance and distribution systems.*

(2) *COORDINATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Secretary and the eligible entity shall, to the maximum extent practicable, use the design work and environmental evaluations initiated by—*

- (A) *non-Federal entities; and*
- (B) *the Corps of Engineers in the San Pablo Bay Watershed of the State.*

(3) *PHASED PROJECT.—A cooperative agreement described in paragraph (1) shall require that the North Bay Water Reuse Program carried out under this section shall consist of 2 phases as follows:*

- (A) *FIRST PHASE.—During the first phase, the Secretary and an eligible entity shall complete the planning, design,*

and construction of the main treatment and main conveyance systems.

(B) *SECOND PHASE.*—During the second phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the sub-regional distribution systems.

(4) *COST SHARING.*—

(A) *FEDERAL SHARE.*—The Federal share of the cost of the first phase of the project authorized by this section shall not exceed 25 percent of the total cost of the first phase of the project.

(B) *FORM OF NON-FEDERAL SHARE.*—The non-Federal share may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the completion of the water reclamation and reuse project, including—

(i) reasonable costs incurred by the eligible entity relating to the planning, design, and construction of the water reclamation and reuse project; and

(ii) the acquisition costs of land acquired for the project that is—

(I) used for planning, design, and construction of the water reclamation and reuse project facilities; and

(II) owned by an eligible entity and directly related to the project.

(C) *LIMITATION.*—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

(5) *EFFECT.*—Nothing in this section—

(A) affects or preempts—

(i) State water law; or

(ii) an interstate compact relating to the allocation of water; or

(B) confers on any non-Federal entity the ability to exercise any Federal right to—

(i) the water of a stream; or

(ii) any groundwater resource.

(6) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated for the Federal share of the total cost of the first phase of the project authorized by this section \$25,000,000, to remain available until expended.