

BAY AREA REGIONAL WATER RECYCLING PROGRAM  
AUTHORIZATION ACT OF 2007

APRIL 10, 2008.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural  
Resources, submitted the following

R E P O R T

[To accompany H.R. 1526]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1526) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize in the Bay Area Regional Water Recycling Program, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 1526 is to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Bay Area Regional Water Recycling Program, and for other purposes.

BACKGROUND AND NEED

The Bay Area Regional Water Recycling Program (BARWRP) is a partnership between 17 local San Francisco Bay Area water and wastewater agencies and the California Department of Water Resources (DWR), which is dedicated to maximizing water recycling throughout the region. The partnership was formed by Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, P.L. 102-575, which brought Bay area agencies together to study opportunities to recycle treated wastewater for beneficial uses.

The Bay Area Recycled Water Master Plan, completed in 1999, identified 125,000 acre-feet/year (af/yr) by 2010, and about 240,000 af/yr by 2025, that could be made available through water recycling

efforts. The BARWRP agencies have invested nearly \$300 million of local funds in water recycling projects, and many more projects are ready to be built. Federal investment in these highly leveraged, locally managed projects will help ensure the security of water supplies in the Bay Area, a region that encompasses the Sacramento-San Joaquin Delta system, which is the largest estuary on the west coast of North America and the source of drinking water for two-thirds of California. In particular, this new water supply will help preserve State and Federal reservoir supplies in California for uses other than urban landscape irrigation, including drought-year protections. The projects included in H.R. 1526 are estimated to yield approximately 12,200 af/yr of water in the short-term and 37,600 af/yr in the long-term.

#### LEGISLATIVE HISTORY

H.R. 1526, was introduced on March 16, 2007 by Representative George Miller and referred to the House Natural Resources Committee. Representatives Anna Eshoo, Michael Honda, Tom Lantos, Zoe Lofgren, Jerry McNerney, Pete Stark, and Ellen Tauscher are original cosponsors. Under suspension of the rules, H.R. 1526 passed the House of Representatives on July 23, 2007, and was referred to the Committee on Energy and Natural Resources in the Senate.

A companion measure, S. 1475, was introduced by Senator Feinstein for herself and Senator Boxer on May 24, 2007, and referred to the Committee on Energy and Natural Resources. The Subcommittee on Water and Power held a hearing on S. 1475 and H.R. 1526 on August 1, 2007. (S. Hrg. 110–170.) At its business meeting on January 30, 2008, the Committee on Energy and Natural Resources ordered H.R. 1526 favorably reported.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on January 30, 2008, by voice vote of a quorum present, recommends that the Senate pass H.R. 1526.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title of the Act.

*Section 2(a)* amends the Reclamation Wastewater and Groundwater Study and Facilities Act by authorizing the Secretary to participate in the design, planning, and construction of the following new projects in California: (1) Mountain View, Moffett Area Reclaimed Water Pipeline Project, at a 25% cost-share up to \$5,000,000; (2) Pittsburg Recycled Water Project, at a 25% cost-share up to \$1,750,000; (3) Antioch Recycled Water Project, at a 25% cost-share up to \$2,250,000; (4) North Coast County Water District Project, at a 25% cost-share up to \$2,500,000; (5) Redwood City Recycled Water Project, at a 25% cost-share up to \$1,100,000; (6) South Santa Clara County Recycled Water Project, at a 25% cost-share up to \$7,000,000; and (7) South Bay Advanced Recycled Water Facility, at a 25% cost-share up to \$8,250,000.

*Section 2(b)* contains conforming amendments to the Reclamation Wastewater and Groundwater Study and Facilities Act.

Section 3 states the intent of Congress regarding the scope of section 1607 of the Reclamation Projects Authorization and Adjustment Act of 1992.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

##### *H.R. 1526—Bay Area Regional Water Recycling Program Authorization Act of 2007*

Summary: H.R. 1526 would authorize the Secretary of the Interior to help plan, design, and construct several water recycling projects in the San Francisco Bay area of California.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 1526 would cost \$28 million over the 2008–2013 period. Enacting the legislation would not affect direct spending or revenues.

H.R. 1526 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. 1526 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	2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	4	12	10	2	0	0
Estimated Outlays .....	3	9	14	2	0	0

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted in fiscal year 2008 and that the necessary amounts will be appropriated for each year.

H.R. 1526 would authorize the Secretary of the Interior to help plan, design, and construct several water recycling projects in the San Francisco Bay area of California. The projects would be constructed with the cooperation of the affected municipalities. Based on information from the Department of the Interior, CBO estimates that the total cost of all the projects would be about \$110 million.

Under the act, the federal share of those costs would be limited to the lesser of 25 percent or \$28 million. Federal funds would not be available for operating and maintaining the projects.

Assuming appropriation of the necessary amounts, CBO estimates that implementing the legislation would cost \$28 million (25 percent of \$110 million) over the 2008–2013 period.

Intergovernmental and private-sector impact: H.R. 1526 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Funds authorized to be appropriated by the act would benefit a number of cities and water districts in California.

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.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1526. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1526, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 1526, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Reclamation at the Subcommittee hearing on August 1, 2007 on companion measure, S. 1475, follows:

##### STATEMENT OF LARRY TODD, DEPUTY COMMISSIONER, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, I am Larry Todd, Deputy Commissioner for Policy, Administration and Budget with the Bureau of Reclamation. I am pleased to be here today to provide the Department of the Interior's views on S. 1475, the Bay Area Regional Water Recycling Program Authorization Act. The Department does not support S. 1475.

S. 1475 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, 43 U.S.C. 390h *et seq.*) to include authorization for construction of seven new projects. These new projects are the Mountain View Moffett Area Reclaimed Water Pipeline Project; the Pittsburg Recycled Water Project; the Antioch Recycled Water Project; the North Coast County Water District Recycled Water Project; the Redwood City Recycled Water Project; the South Santa Clara County Recycled Water Project; and the South Bay Advanced Recycled Water Treatment Facility. The Federal share of the costs to implement each of the seven new Title XVI projects would not exceed 25 percent. S. 1475 also establishes a Federal cost ceiling for each of the seven new projects, collectively totaling \$27.5 million.

Of the 32 specific Title XVI projects authorized to date, 21 have received funding. The remaining estimated total authorized Federal cost share of these 21 active Title XVI

projects is at least \$328 million. Given the costs of the currently active Title XVI projects, we do not support the authorization of new projects at this time.

I would like to briefly describe the status of these projects, most of which are already under review by Reclamation's Regional and Area Office staff. Of the seven projects providing new Title XVI construction authorization, the South Bay Advanced Recycled Water Treatment Facility, is already authorized by Congress and is considered feasible under Reclamation guidelines. Two additional projects—the Pittsburg Recycled Water Project and the Mountain View/Moffett Area Recycled Water Project—have received feasibility determinations from Reclamation.

Meanwhile, the sponsors of the South Santa Clara County Recycled Water Project and the Antioch Recycled Water Project have not yet completed a review of their draft feasibility reports and environmental documents. Therefore, the feasibility reports do not meet the requirements for Title XVI feasibility studies.

Feasibility reports for the last two projects identified for construction authorization in S. 1475—the North Coast County Water District Recycled Water Project and the Redwood City Recycled Water Project—were reviewed by the Bureau of Reclamation in 2006. The feasibility reports for both projects needed additional environmental and financial capability information. To date, the project sponsors have not provided this additional information in order for Reclamation to complete the determination of feasibility.

Although one of the projects included in the bill is already authorized for design, planning, and construction, and two of the projects have feasibility reports that meet the requirements of Title XVI feasibility studies, the remaining four projects do not have feasibility reports that meet those requirements. As such, the Department believes that it is premature to authorize projects prior to completion of feasibility reports.

While Reclamation does not support new authorizations for Federal cost sharing of water recycling projects, we understand that the projects established by Title XVI are important to many water users in the West. To that end, Reclamation has set about revising and improving its Directives and Standards that govern reviews of Title XVI projects. By doing so, we believe that Reclamation can play a more constructive role with local sponsors in weighing the merits and ultimate feasibility of proposed water recycling projects.

The Department appreciates local efforts to address future water issues. However, in light of the concerns expressed above, we do not support S. 1475. That concludes my prepared remarks. I would be pleased to answer any questions.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill H.R. 1526, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**RECLAMATION PROJECTS AUTHORIZATION AND  
ADJUSTMENT ACT OF 1992**

Public Law 102–575, Title XVI, Section 16XX (106 Stat. 4663)

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TITLE XVI—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

Sec. 1. Short title.

\* \* \* \* \*

*Sec. 16xx. Mountain View, Moffett Area Reclaimed Water Pipeline Project.*

*Sec. 16xx. Pittsburg Recycled Water Project.*

*Sec. 16xx. Antioch Recycled Water Project.*

*Sec. 16xx. North Coast County Water District Recycled Water Project.*

*Sec. 16xx. Redwood City Recycled Water Project.*

*Sec. 16xx. South Santa Clara County Recycled Water Project.*

*Sec. 16xx. South Bay Advanced Recycled Water Treatment Facility.*

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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. 16XX. MOUNTAIN VIEW, MOFFETT AREA RECLAIMED WATER PIPELINE PROJECT.**

(a) *AUTHORIZATION.*—*The Secretary, in cooperation with the City of Palo Alto, California, and the City of Mountain View, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.*

(b) *COST SHARE.*—*The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

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

(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to carry out this section \$5,000,000.*

**SEC. 16xx. PITTSBURG RECYCLED WATER PROJECT.**

(a) *AUTHORIZATION.*—*The Secretary, in cooperation with the City of Pittsburg, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.*

(b) *COST SHARE.*—*The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

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

(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to carry out this section \$1,750,000.*

**SEC. 16xx. ANTIOCH RECYCLED WATER PROJECT.**

(a) *AUTHORIZATION.*—*The Secretary, in cooperation with the City of Antioch, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.*

(b) *COST SHARE.*—*The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

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

(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to carry out this section \$2,250,000.*

**SEC. 16xx. NORTH COAST COUNTY WATER DISTRICT RECYCLED WATER PROJECT.**

(a) *AUTHORIZATION.*—*The Secretary, in cooperation with the North Coast County Water District, is authorized to participate in the design, planning, and construction of recycled water system facilities.*

(b) *COST SHARE.*—*The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

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

(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to carry out this section \$2,500,000.*

**SEC. 16xx. REDWOOD CITY RECYCLED WATER PROJECT.**

(a) *AUTHORIZATION.*—*The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.*

(b) *COST SHARE.*—*The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

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

(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to carry out this section \$1,100,000.*

**SEC. 16xx. SOUTH SANTA CLARA COUNTY RECYCLED WATER PROJECT.**

(a) *AUTHORIZATION.*—*The Secretary, in cooperation with the South County Regional Wastewater Authority and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water system distribution facilities.*

(b) *COST SHARE.*—*The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

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

(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to carry out this section \$7,000,000.*

**SEC. 16xx. SOUTH BAY ADVANCED RECYCLED WATER TREATMENT FACILITY.**

(a) *AUTHORIZATION*.—The Secretary, in cooperation with the City of San Jose, California, and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water treatment facilities.

(b) *COST SHARE*.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

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

(d) *AUTHORIZATION OF APPROPRIATIONS*.—There is authorized to be appropriated to carry out this section \$8,250,000.

