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SENATE

{ REPORT
{ 111-305

MAGNA WATER DISTRICT WATER REUSE AND GROUNDWATER RECHARGE ACT

SEPTEMBER 27, 2010.—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 S. 745]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 745) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Magna Water District water reuse and groundwater recharge project, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 2, line 24, strike “shall” and insert “may”.

PURPOSE

The purpose of S. 745 is to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Magna Water District water reuse and groundwater recharge project, and for other purposes.

BACKGROUND AND NEED

The Magna Water District (Magna), located in Magna, Utah, provides drinking water, irrigation water, and sewer services to the Magna Township, northwestern areas of West Valley City, and a portion of the southwestern Salt Lake City area. The funds to be made available pursuant to the Bureau of Reclamation’s (Reclamation) Title XVI program will assist Magna with removing perchlorate and arsenic from the groundwater, resulting in high quality drinking water and high quality effluent that can be used for

irrigation purposes through a reuse and secondary irrigation system. Successful removal of the perchlorate and arsenic will reduce the overall current use of treated water. S. 745 adds an additional project to the list of authorized Title XVI projects. Federal funding contributions will be limited to 25 percent of the total project costs, or \$12 million, whichever is less.

LEGISLATIVE HISTORY

S. 745 was introduced by Senator Hatch on March 31, 2009. The House companion measure (H.R. 2265), sponsored by Representative Chaffetz, passed the House of Representatives by voice vote on September 22, 2009. The Subcommittee on Water and Power held a hearing on S. 745 and H.R. 2265 on April 27, 2010. The Committee on Energy and Natural Resources considered S. 745 at its business meeting on July 21, 2010, and ordered it favorably reported with amendment.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 21, 2010, by voice vote of a quorum present, recommends that the Senate pass S. 745, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of H.R. 745, the Committee adopted an amendment. The amendment replaces the word “shall” with the word “may” in providing the secretary discretion to allow the project beneficiaries to obtain credit toward a non-federal cost share for certain costs incurred prior to enactment.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title of the bill.

Section 2 amends the Reclamation Wastewater and Groundwater Study and Facilities Act, Title XVI of Public Law 102–575, by adding a new section authorizing the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities needed to establish recycled water distribution and wastewater treatment and reclamation facilities that will be used to provide recycled water to users within the Magna Water District, with a federal cost-share not to exceed 25 percent of the total cost or \$12 million, whichever is less. Section 2 also provides authority to the Bureau of Reclamation to credit certain costs incurred by Magna prior to January 1, 2003, towards the non-Federal share of the costs of the project.

COST AND BUDGETARY CONSIDERATIONS

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

S. 745—Magna Water District Water Reuse and Groundwater Recharge Act of 2009

Summary: S. 745 would authorize the Bureau of Reclamation to participate in developing a water project in the Magna Water Dis-

tract in Salt Lake County, Utah. Assuming appropriation of the authorized amount, CBO estimates that implementing S. 745 would cost \$12 million over the 2011–2015 period. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 745 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 S. 745 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—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	12	0	0	0	0	12
Estimated Outlays	8	4	0	0	0	12

Basis of estimate: For this estimate, CBO assumes that S. 745 will be enacted in 2010 and that the federal share of the project's costs will be appropriated in fiscal year 2011. Estimated outlays are based on information provided by the Bureau of Reclamation.

S. 745 would authorize the bureau to design, plan, and construct water recycling facilities in the Magna Water District. The legislation would authorize the appropriation of \$12 million to cover nearly 25 percent of the project's costs (about \$50 million). The remainder of those costs would be the responsibility of local governments, as would the costs of operating and maintaining the facility.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 745 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would benefit the Magna Water District in Utah by authorizing federal assistance for planning, designing, and constructing water facilities.

Previous CBO estimate: On September 18, 2009, CBO transmitted a cost estimate for H.R. 2265, the Magna Water District Water Reuse and Groundwater Recharge Act of 2009, as ordered reported by the House Committee on Natural Resources on September 10, 2009. The two pieces of legislation and CBO's cost estimates are similar.

Estimate prepared by: Federal Costs: Aurora Swanson; 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 S. 745.

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 S. 745 as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

In accordance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides the following identification of congressionally directed spending items contained in the bill, as reported:

Section	Provision	Member
2	Authorization of appropriations	Senator Hatch.

EXECUTIVE COMMUNICATIONS

STATEMENT OF KIRA L. FINKLER, DEPUTY COMMISSIONER FOR EXTERNAL AND INTERGOVERNMENTAL AFFAIRS, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairwoman and Members of the Subcommittee, I am Kira Finkler, Deputy Commissioner for External and Intergovernmental Affairs at the Bureau of Reclamation (Reclamation). I am pleased to provide the views of the Department of the Interior (Department) on S. 745, the Magna Water District Water Reuse and Groundwater Recharge Project. For reasons I will discuss below, the Administration cannot support the bill.

S. 745 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, 43 U.S.C. 390h *et seq.*), commonly called Title XVI, to authorize the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities needed to establish recycled water distribution and wastewater treatment and reclamation facilities in the Magna Water District in Salt Lake County, Utah.

S. 745 authorizes a \$12 million (25 percent) Federal cost share for the project. The proposed project has an estimated total project cost of \$51 million and would reduce the District's reliance on high quality potable water by 580 million gallons (1,780 acre-feet) per year, currently used for non-potable water supply. Reclamation completed a review of the Magna Water District's Feasibility Study in July 2009, and made a finding that the District's report met the requirements of a feasibility study as defined under Section 1604 of Title XVI.

S. 745 would authorize the project under Title XVI for Federal funding not to exceed 25 percent or \$20 million, whichever is less.

While the Department supports efforts to increase local water supplies and increase recycled water use, this project would compete for funds with other needs within

the Reclamation program, including other Title XVI projects currently under construction. In general, the Department supports the Title XVI Reclamation and Reuse program. The 2011 budget proposal includes funding for the Department's WaterSMART Program, and Title XVI is an important element of that program. Specifically, the 2011 budget proposal includes \$29 million for the Title XVI program, a 113% increase over the 2010 enacted level.

As part of this total, the Department is requesting \$20 million for Title XVI projects to be selected using criteria to identify activities most closely aligned with Title XVI statutory and program goals. On March 15, 2010, Reclamation posted an announcement inviting comment on 1 draft funding criteria for Title XVI projects. After these criteria are finalized with comments received up through April 16, Reclamation will review and rank Title XVI project proposals received based on those criteria subject to appropriations in fiscal year 2011.

Separately, in July of 2009, the Department announced the allocation of approximately \$135 million in grants for specific authorized Title XVI projects using funds from the American Recovery and Reinvestment Act, or ARRA. We recognize that water reuse is an essential tool in stretching the limited water supplies in the West, and I believe the FY 2011 Budget request on top of the ARRA funding has demonstrated the emphasis placed by this Administration on this Program. However, given that there are 53 already authorized Title XVI projects and numerous competing mission priorities and demands on Reclamation's budget, the Department cannot support the authorization of new Title XVI projects or extensions of existing authorized cost ceilings at this time.

Reclamation will, however, continue to work with project proponents to evaluate the completeness of feasibility studies of their projects.

Madam Chairwoman, this concludes my testimony. Thank you for the opportunity to comment on S. 745. I would be pleased to answer any questions at this time.

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 S. 745, 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)

AN ACT To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Magna Water District water reuse and groundwater recharge project, and for other purposes.

Be it enacted by the Senate and the House of Representatives of The United States of America in Congress assembled,

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.

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TITLE XVI—RECLAMATION WASTEWATER AND GROUND WATER STUDIES

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Sec. 1649. Magna Water District water reuse and groundwater recharge project, Utah.

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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. 1649. MAGNA WATER DISTRICT WATER REUSE AND GROUND-
WATER RECHARGE PROJECT, UTAH.**

(a) *AUTHORIZATION.*—The Secretary, in cooperation with the Magna Water District, Utah, may participate in the design, planning, and construction of permanent facilities needed to establish recycled water distribution and wastewater treatment and reclamation facilities that will be used to provide recycled water in the Magna Water District.

(b) *COST SHARING.*—

(1) *FEDERAL SHARE.*—The Federal share of the capital cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

(2) *NON-FEDERAL SHARE.*—Each cost incurred by the Magna Water District after January 1, 2003, relating to any capital, planning, design, permitting, construction, or land acquisition (including the value of reallocated water rights) for the project described in subsection (a) may be credited towards the non-Federal share of the costs of the project.

(c) *LIMITATION.*—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$12,000,000.

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