

105TH CONGRESS
1ST SESSION

S. 35

To amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. FEINGOLD introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, 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 “Irrigation Subsidy Re-
5 duction Act of 1997”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Federal reclamation program has been
2 in existence for over 90 years, with an estimated
3 taxpayer investment of over \$70,000,000,000;

4 (2) the program has had and continues to have
5 an enormous effect on the water resources and
6 aquatic environments of the western States;

7 (3) irrigation water made available from Fed-
8 eral water projects in the West is a very valuable re-
9 source for which there are increasing and competing
10 demands;

11 (4) the justification for providing water at less
12 than full cost was to benefit and promote the devel-
13 opment of small family farms and exclude large cor-
14 porate farms, but this purpose has been frustrated
15 over the years by inadequate implementation of sub-
16 sidy and acreage limits;

17 (5) below-cost water prices tend to encourage
18 excessive use of scarce water supplies in the arid re-
19 gions of the West, and reasonable price increases to
20 the wealthiest western farmers would provide an eco-
21 nomic incentive for greater water conservation;

22 (6) the Federal Government has increasingly
23 applied eligibility tests based on income for Federal
24 entitlement and subsidy programs, measures that

1 are consistent with the historic approach of the rec-
 2 lamation program’s acreage limitations that seek to
 3 limit water subsidies to smaller farms; and

4 (7) including a means test based on gross in-
 5 come in the reclamation program will increase the
 6 effectiveness of carrying out the family farm goals of
 7 the Federal reclamation laws.

8 **SEC. 3. AMENDMENTS.**

9 (a) DEFINITIONS.—Section 202 of the Reclamation
 10 Reform Act of 1982 (43 U.S.C. 390bb) is amended—

11 (1) in paragraph (6), by striking “owned or op-
 12 erated under a lease which” and inserting “that is
 13 owned, leased, or operated by an individual or legal
 14 entity and that”;

15 (2) by redesignating paragraphs (7), (8), (9),
 16 (10), and (11) as paragraphs (8), (10), (11), (12),
 17 and (13), respectively;

18 (3) by inserting after paragraph (6) the follow-
 19 ing:

20 “(7) LEGAL ENTITY.—The term ‘legal entity’
 21 includes a corporation, association, partnership,
 22 trust, joint tenancy, or tenancy in common, or any
 23 other entity that owns, leases, or operates a farm
 24 operation for the benefit of more than 1 individual
 25 under any form of agreement or arrangement.”;

(4) by inserting after paragraph (8) (as redesignated by paragraph (2)) the following:

“(9) OPERATOR.—

“(A) IN GENERAL.—The term ‘operator’—

“(i) means an individual or legal entity that operates a single farm operation on a parcel (or parcels) of land that is owned or leased by another person (or persons) under any form of agreement or arrangement (or agreements or arrangements); and

“(ii) if the individual or legal entity—

“(I) is an employee of another individual or legal entity, includes each such other individual or legal entity; or

“(II) is a legal entity that controls, is controlled by, or is under common control with another legal entity, includes each such other legal entity.

“(B) OPERATION OF A FARM OPERATION.—For the purposes of subparagraph (A), an individual or legal entity shall be considered to operate a farm operation if the individual or

1 legal entity is the person that performs the
 2 greatest proportion of the decisionmaking for,
 3 and supervision of, the farm operation on land
 4 served with irrigation water.”; and

5 (5) by adding at the end the following:

6 “(14) SINGLE FARM OPERATION.—

7 “(A) IN GENERAL.—The term ‘single farm
 8 operation’ means the total acreage of land
 9 served with irrigation water for which an indi-
 10 vidual or legal entity is the operator.

11 “(B) RULES FOR DETERMINING WHETHER
 12 SEPARATE PARCELS ARE OPERATED AS A SIN-
 13 GLE FARM OPERATION.—

14 “(i) EQUIPMENT- AND LABOR-SHAR-
 15 ING ACTIVITIES.—The conduct of
 16 equipment- and labor-sharing activities on
 17 separate parcels of land by separate indi-
 18 viduals or legal entities shall not by itself
 19 serve as a basis for concluding that the
 20 farm operations of the individuals or legal
 21 entities constitute a single farm operation.

22 “(ii) PERFORMANCE OF CERTAIN
 23 SERVICES.—The performance by an indi-
 24 vidual or legal entity of an agricultural

1 chemical application, pruning, or harvest-
 2 ing for a farm operation on a parcel of
 3 land shall not by itself serve as a basis for
 4 concluding that the farm operation on that
 5 parcel of land is part of a single farm op-
 6 eration operated by the individual or entity
 7 on other parcels of land.”.

8 (b) IDENTIFICATION OF OWNERS, LESSEES, AND OP-
 9 ERATORS OF SINGLE FARM OPERATIONS.—The Reclama-
 10 tion Reform Act of 1982 (43 U.S.C. 390aa et seq.) is
 11 amended by inserting after section 202 the following:

12 **“SEC. 202A. IDENTIFICATION OF OWNERS, LESSEES, AND**
 13 **OPERATORS OF SINGLE FARM OPERATIONS.**

14 “(a) IN GENERAL.—Subject to subsection (b), for
 15 each parcel of land to which irrigation water is delivered
 16 or proposed to be delivered, the Secretary shall identify
 17 a single individual or legal entity as the owner, lessee, or
 18 operator.

19 “(b) SHARED DECISIONMAKING AND SUPER-
 20 VISION.—If the Secretary determines that no single indi-
 21 vidual or legal entity is the owner, lessee, or other individ-
 22 ual that performs the greatest proportion of decisionmak-
 23 ing for, and supervision of, the farm operation on a parcel
 24 of land—

1 “(1) all individuals and legal entities that own,
 2 lease, or perform a proportion of decisionmaking and
 3 supervision that is equal as among themselves but
 4 greater than the proportion performed by any other
 5 individual or legal entity shall be considered jointly
 6 to be the owner, lessee, or operator; and

7 “(2) all parcels of land of which any such indi-
 8 vidual or legal entity is the owner, lessee, or opera-
 9 tor shall be considered to be part of the single farm
 10 operation of the owner, lessee, or operator identified
 11 under paragraph (1).”.

12 (c) PRICING.—Section 205 of the Reclamation Re-
 13 form Act of 1982 (43 U.S.C. 390ee) is amended by adding
 14 at the end the following:

15 “(d) SINGLE FARM OPERATIONS GENERATING MORE
 16 THAN \$500,000 IN GROSS FARM INCOME.—

17 “(1) IN GENERAL.—Notwithstanding sub-
 18 sections (a), (b), and (c), in the case of—

19 “(A) a qualified recipient that reports
 20 gross farm income from a single farm operation
 21 in excess of \$500,000 for a taxable year; or

22 “(B) a limited recipient that received irri-
 23 gation water on or before October 1, 1981, and
 24 that reports gross farm income from a single

1 farm operation in excess of \$500,000 for a tax-
 2 able year;
 3 irrigation water may be delivered to the single farm
 4 operation of the qualified recipient or limited recipi-
 5 ent at less than full cost to a number of acres that
 6 does not exceed the number of acres determined
 7 under paragraph (2).

8 “(2) MAXIMUM NUMBER OF ACRES TO WHICH
 9 IRRIGATION WATER MAY BE DELIVERED AT LESS
 10 THAN FULL COST.—The number of acres determined
 11 under this paragraph is the number equal to the
 12 number of acres of the single farm operation multi-
 13 plied by a fraction, the numerator of which is
 14 \$500,000 and the denominator of which is the
 15 amount of gross farm income reported by the quali-
 16 fied recipient or limited recipient in the most recent
 17 taxable year.

18 “(3) INFLATION ADJUSTMENT.—

19 “(A) IN GENERAL.—For any taxable year
 20 beginning in a calendar year after 1997, the
 21 \$500,000 amount under paragraphs (1) and (2)
 22 shall be equal to the product of—

23 “(i) \$500,000; and

24 “(ii) the inflation adjustment factor
 25 for the taxable year.

“(B) INFLATION ADJUSTMENT FACTOR.—

The term ‘inflation adjustment factor’ means, with respect to any calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for 1996. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

“(C) GDP IMPLICIT PRICE DEFLATOR.—In

subparagraph (B), the term ‘GDP implicit price deflator’ means the first revision of the implicit price deflator for the gross domestic product as computed and published by the Secretary of Commerce.

“(D) ROUNDING.—If any adjustment of

the \$500,000 amount determined under subparagraph (A) is not a multiple of \$100, the adjustment shall be rounded to the next lowest multiple of \$100.”.

(d) CERTIFICATION OF COMPLIANCE.—Section 206

of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff)

is amended to read as follows:

1 **“SEC. 206. CERTIFICATION OF COMPLIANCE.**

2 “(a) IN GENERAL.—As a condition to the receipt of
3 irrigation water for land in a district that has a contract
4 described in section 203, each owner, lessee, or operator
5 in the district shall furnish the district, in a form pre-
6 scribed by the Secretary, a certificate that the owner, les-
7 see, or operator is in compliance with this title, including
8 a statement of the number of acres owned, leased, or oper-
9 ated, the terms of any lease or agreement pertaining to
10 the operation of a farm operation, and, in the case of a
11 lessee or operator, a certification that the rent or other
12 fees paid reflect the reasonable value of the irrigation
13 water to the productivity of the land.

14 “(b) DOCUMENTATION.—The Secretary may require
15 a lessee or operator to submit for the Secretary’s examina-
16 tion—

17 “(1) a complete copy of any lease or other
18 agreement executed by each of the parties to the
19 lease or other agreement; and

20 “(2) a copy of the return of income tax imposed
21 by chapter 1 of the Internal Revenue Code of 1986
22 for any taxable year in which the single farm oper-
23 ation of the lessee or operator received irrigation
24 water at less than full cost.”.

25 (e) TRUSTS.—Section 214 of the Reclamation Re-
26 form Act of 1982 (43 U.S.C. 390nn) is repealed.

1 (f) ADMINISTRATIVE PROVISIONS.—

2 (1) PENALTIES.—Section 224(c) of the Rec-
3 lamation Reform Act of 1982 (43 U.S.C. 390ww(c))
4 is amended—

5 (A) by striking “(c) The Secretary” and
6 inserting the following:

7 “(c) REGULATIONS; DATA COLLECTION; PEN-
8 ALTIES.—

9 “(1) REGULATIONS; DATA COLLECTION.—The
10 Secretary”; and

11 (B) by adding at the end the following:

12 “(2) PENALTIES.—Notwithstanding any other
13 provision of law, the Secretary shall establish appro-
14 priate and effective penalties for failure to comply
15 with any provision of this Act or any regulation is-
16 sued under this Act.”.

17 (2) INTEREST.—Section 224(i) of the Reclama-
18 tion Reform Act of 1982 (43 U.S.C. 390ww(i)) is
19 amended by striking the last sentence and inserting
20 the following: “The interest rate applicable to under-
21 payments shall be equal to the rate applicable to ex-
22 penditures under section 202(3)(C).”.

1 (g) REPORTING.—Section 228 of the Reclamation
 2 Reform Act of 1982 (43 U.S.C. 390zz) is amended by in-
 3 serting “operator or” before “contracting entity” each
 4 place it appears.

5 (h) MEMORANDUM OF UNDERSTANDING.—The Rec-
 6 lamation Reform Act of 1982 (43 U.S.C. 390aa et seq.)
 7 is amended—

8 (1) by redesignating sections 229 and 230 as
 9 sections 230 and 231, respectively; and

10 (2) by inserting after section 228 the following:

11 **“SEC. 229. MEMORANDUM OF UNDERSTANDING.**

12 “The Secretary, the Secretary of the Treasury, and
 13 the Secretary of Agriculture shall enter into a memoran-
 14 dum of understanding or other appropriate instrument to
 15 permit the Secretary, notwithstanding section 6103 of the
 16 Internal Revenue Code of 1986, to have access to and use
 17 of available information collected or maintained by the De-
 18 partment of the Treasury and the Department of Agri-
 19 culture that would aid enforcement of the ownership and
 20 pricing limitations of Federal reclamation law.”.

