

108TH CONGRESS  
2D SESSION

# H. R. 4389

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IN THE SENATE OF THE UNITED STATES

OCTOBER 5, 2004

Received

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## AN ACT

To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, 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,*

1 **SECTION 1. DEFINITIONS.**

2 For the purposes of this section, the following defini-  
3 tions apply:

4 (1) DISTRICT.—The term “District” means the  
5 Fallbrook Public Utility District, San Diego County,  
6 California.

7 (2) PROJECT.—The term “Project” means the  
8 impoundment, recharge, treatment, and other facili-  
9 ties the construction, operation, and maintenance of  
10 which is authorized under subsection (b).

11 **SEC. 2. AUTHORIZATION FOR CONSTRUCTION OF LOWER**  
12 **SANTA MARGARITA CONJUNCTIVE USE**  
13 **PROJECT.**

14 (a) AUTHORIZATION.—The Secretary, acting pursu-  
15 ant to the Federal reclamation laws (Act of June 17,  
16 1902; 32 Stat. 388), and Acts amendatory thereof or sup-  
17 plementary thereto, as far as those laws are not incon-  
18 sistent with the provisions of this Act, is authorized to  
19 construct, operate, and maintain to make the yield of the  
20 Lower Santa Margarita Conjunctive Use Project to be lo-  
21 cated below the confluence of De Luz Creek with the  
22 Santa Margarita River on Camp Joseph H. Pendleton, the  
23 Fallbrook Annex of the Naval Weapons Station, and sur-  
24 rounding lands within the service area of the District  
25 available for irrigation, municipal, domestic, military, and

1 other uses for the District and such other users as herein  
2 provided.

3 (b) CONDITIONS.—The Secretary of the Interior may  
4 construct the Project only after the Secretary of the Inte-  
5 rior determines that the following conditions have oc-  
6 curred:

7 (1) The District has entered into a contract  
8 under section 9(d) of the Reclamation Project Act of  
9 1939 to repay to the United States appropriate por-  
10 tions, as determined by the Secretary, of the actual  
11 costs of constructing, operating, and maintaining the  
12 Project, together with interest as hereinafter pro-  
13 vided.

14 (2) The officer or agency of the State of Cali-  
15 fornia authorized by law to grant permits for the ap-  
16 propriation of water has granted such permits to the  
17 Bureau of Reclamation for the benefit of the De-  
18 partment of the Navy and the District as permittees  
19 for rights to the use of water for storage and diver-  
20 sion as provided in this Act, including approval of all  
21 requisite changes in points of diversion and storage,  
22 and purposes and places of use.

23 (3) The District has agreed that it will not as-  
24 sert against the United States any prior appropri-  
25 ative right the District may have to water in excess

1 of the quantity deliverable to it under this Act, and  
2 will share in the use of the waters impounded by the  
3 Project on the basis of equal priority and in accord-  
4 ance with the ratio prescribed in section 4(b). This  
5 agreement and waiver and the changes in points of  
6 diversion and storage under paragraph (2), shall be-  
7 come effective and binding only when the Project  
8 has been completed and put into operation.

9 (4) The Secretary of the Interior has deter-  
10 mined that the Project has economic, environmental,  
11 and engineering feasibility.

12 **SEC. 3. COSTS.**

13 The Department of the Navy shall not be responsible  
14 for any costs in connection with the Project, except upon  
15 completion and then shall be charged in reasonable pro-  
16 portion to its use of the Project under regulations agreed  
17 upon by the Secretary of the Navy and Secretary of the  
18 Interior.

19 **SEC. 4. OPERATION; YIELD ALLOTMENT; DELIVERY.**

20 (a) OPERATION.—The operation of the Project may  
21 be by the Secretary of the Interior or otherwise as agreed  
22 upon by the Secretaries of the Interior and the Navy and  
23 the District, under regulations satisfactory to the Sec-  
24 retary of the Navy with respect to the Navy's share of  
25 the impounded water and national security.

1       (b) YIELD ALLOTMENT.—Except as otherwise agreed  
2 between the parties, the Department of the Navy and the  
3 District shall participate in the water impounded by the  
4 Project on the basis of equal priority and in accordance  
5 with the following ratio:

6           (1) 60 percent of the Project's yield is allotted  
7 to the Secretary of the Navy.

8           (2) 40 percent of the Project's yield is allotted  
9 to the District.

10       (c) CONTRACTS FOR DELIVERY OF WATER.—

11           (1) IN GENERAL.—If the Secretary of the Navy  
12 certifies that the Department of the Navy does not  
13 have immediate need for any portion of the 60 per-  
14 cent yield allotted under subsection (b), the official  
15 agreed upon to administer the Project may enter  
16 into temporary contracts for the delivery of the ex-  
17 cess water.

18           (2) FIRST RIGHT FOR EXCESS WATER.—The  
19 first right of the Secretary of the Navy to demand  
20 that water without charge and without obligation on  
21 the part of the United States after 30 days notice  
22 shall be included as a condition of contracts entered  
23 into under this subsection. The first right to water  
24 available under paragraph (1) shall be given the Dis-

1        trict, if otherwise consistent with the laws of the  
2        State of California.

3            (3) DISPOSITION OF FUNDS.—Moneys paid to  
4        the United States under a contract under this sub-  
5        section shall be covered into the general Treasury or  
6        to the Secretary of the Navy, as services in lieu of  
7        payment for operation and maintenance of the  
8        Project, and shall not be applied against the indebt-  
9        edness of the District to the United States.

10           (4) MODIFICATION OF RIGHTS AND OBLIGA-  
11        TIONS RELATED TO WATER YIELD.—The rights and  
12        obligations of the United States and the District re-  
13        garding the ratio or amounts of Project yield deliv-  
14        ered may be modified by an agreement between the  
15        parties.

16   **SEC. 5. REPAYMENT OBLIGATION OF THE DISTRICT.**

17        (a) IN GENERAL.—The general repayment obligation  
18        of the District shall be determined by the Secretary of the  
19        Interior consistent with the Water Supply Act of 1958;  
20        provided, however, that for the purposes of calculating in-  
21        terest and determining the time when the District's repay-  
22        ment obligation to the United States commences, the  
23        pumping and treatment of groundwater from the Project  
24        shall be deemed equivalent to the first use of water from  
25        a water storage project.

1       (b) MODIFICATION OF RIGHTS AND OBLIGATION BY  
2 AGREEMENT.—The rights and obligations of the United  
3 States and the District regarding the repayment obliga-  
4 tion of the District may be modified by an agreement be-  
5 tween the parties.

6 **SEC. 6. TRANSFER OF CARE, OPERATION, AND MAINTENANCE.**  
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8       The Secretary may transfer to the District, or a mu-  
9 tually agreed upon third party, the care, operation, and  
10 maintenance of the Project under conditions satisfactory  
11 to that Secretary and the District, and with respect to  
12 the portion of the Project that is located within the bound-  
13 aries of Camp Pendleton, satisfactory also to the Secretary  
14 of the Navy. If such a transfer takes place, the District  
15 shall be entitled to an equitable credit for the costs associ-  
16 ated with the Secretary's proportionate share of the oper-  
17 ation and maintenance of the Project. The amount of such  
18 costs shall be applied against the indebtedness of the Dis-  
19 trict to the United States.

20 **SEC. 7. SCOPE OF ACT.**

21       For the purpose of this Act, the basis, measure, and  
22 limit of all rights of the United States pertaining to the  
23 use of water shall be the laws of the State of California.  
24 That nothing in this Act shall be construed—

1           (1) as a grant or a relinquishment by the  
2       United States of any rights to the use of water that  
3       it acquired according to the laws of the State of  
4       California, either as a result of its acquisition of the  
5       lands comprising Camp Joseph H. Pendleton and  
6       adjoining naval installations, and the rights to the  
7       use of water as a part of that acquisition, or through  
8       actual use or prescription or both since the date of  
9       that acquisition, if any;

10          (2) to create any legal obligation to store any  
11       water in the Project, to the use of which the United  
12       States has such rights;

13          (3) to constitute a recognition of, or an admis-  
14       sion that, the District has any rights to the use of  
15       water in the Santa Margarita River, which rights, if  
16       any, exist only by virtue of the laws of the State of  
17       California; or

18          (4) to require the division under this Act of  
19       water to which the United States has such rights.

20 **SEC. 8. LIMITATIONS ON OPERATION AND ADMINISTRA-**  
21 **TION.**

22       Unless otherwise agreed by the Secretary of the  
23       Navy, the Project—

24          (1) shall be operated in a manner which allows  
25       the free passage of all of the water to the use of



1       which the United States is entitled according to the  
2       laws of the State of California either as a result of  
3       its acquisition of the lands comprising Camp Joseph  
4       H. Pendleton and adjoining naval installations, and  
5       the rights to the use of water as a part of those ac-  
6       quisitions, or through actual use or prescription, or  
7       both, since the date of that acquisition, if any; and

8               (2) shall not be administered or operated in any  
9       way which will impair or deplete the quantities of  
10      water the use of which the United States would be  
11      entitled under the laws of the State of California  
12      had the Project not been built.

13 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

14      There is authorized to be appropriated, out of any  
15      money in the Treasury of the United States not otherwise  
16      appropriated, the following:

17              (1) \$60,000,000 (the current estimated con-  
18      struction cost of the Project, plus or minus such  
19      amounts as may be indicated by the engineering cost  
20      indices for this type of construction); and

21              (2) such sums as may be required to operate  
22      and maintain the said project.

23 **SEC. 10. REPORTS TO CONGRESS.**

24      Not later than 1 year after the date of the enactment  
25      of this Act and periodically thereafter, the Secretary of

1 the Interior and the Secretary of the Navy shall each re-  
2 port to the Congress regarding if the conditions specified  
3 in section 2(b) have been met and if so, the details of how  
4 they were met.

Passed the House of Representatives October 4,  
2004.

Attest:

JEFF TRANDAHL,  
*Clerk.*