

108TH CONGRESS
1ST SESSION

S. 1732

To direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

IN THE SENATE OF THE UNITED STATES

OCTOBER 15, 2003

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

A BILL

To direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

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 Reclamation Rural
5 Water Supply Act of 2003”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) CONSTRUCT.—The term “construct” means
2 to—

3 (A) install new infrastructure; and

4 (B) upgrade or replace existing facilities
5 that are associated with the new infrastructure
6 authorized under this Act.

7 (2) INDIAN TRIBE.—The term “Indian tribe”
8 means any Indian entity that is—

9 (A) included on the list of recognized tribes
10 that the Secretary publishes in the Federal
11 Register in accordance with section 104 of the
12 Federally Recognized Indian Tribe List Act of
13 1994 (25 U.S.C. 479a–1); and

14 (B) recognized by the Secretary as eligible
15 to receive services from the Federal Govern-
16 ment.

17 (3) NON-FEDERAL PROJECT ENTITY.—The
18 term “non-Federal project entity” means a State,
19 regional, or local authority, Indian tribe, or other
20 qualifying entity, such as a water conservation dis-
21 trict, water conservancy district, or rural water dis-
22 trict or association.

23 (4) PROGRAM.—The term “program” means
24 the rural water supply program established under
25 section 3(a).

1 (5) PROJECT.—

2 (A) IN GENERAL.—The term “project”
3 means a water supply project for communities,
4 an Indian tribe, or dispersed homesites with do-
5 mestic or rural water.

6 (B) INCLUSION.—The term “project” in-
7 cludes incidental livestock watering.

8 (6) RECLAMATION LAW.—The term “Reclama-
9 tion law” means the Act of June 17, 1902 (32 Stat.
10 388, chapter 1093), and Acts supplemental to and
11 amendatory of that Act (43 U.S.C. 371 et seq.).

12 (7) RECLAMATION STATE.—The term “Rec-
13 lamation State” means each of the States identified
14 in the first section of the Act of June 17, 1902 (43
15 U.S.C. 391).

16 (8) SECRETARY.—The term “Secretary” means
17 the Secretary of the Interior.

18 **SEC. 3. RURAL WATER SUPPLY PROGRAM.**

19 (a) IN GENERAL.—The Secretary, in cooperation
20 with non-Federal project entities, may carry out a rural
21 water supply program to plan, design, and construct
22 projects in Reclamation States.

23 (b) ELIGIBILITY CRITERIA.—

24 (1) IN GENERAL.—The Secretary shall develop
25 and publish in the Federal Register criteria for de-

1 termining the eligibility of a project for assistance
2 under the program.

3 (2) CONSIDERATIONS.—The criteria developed
4 under paragraph (1) shall take into account such
5 factors as—

6 (A) whether a project serves—

7 (i) rural areas and communities; or

8 (ii) Indian tribes;

9 (B) whether there is an urgent and com-
10 pelling need for a project that would—

11 (i) result in continuous, measurable,
12 and significant water quality benefits;

13 (ii) address current or future water
14 supply shortages; or

15 (iii) improve the health or aesthetic
16 quality of water;

17 (C) whether a project helps meet any ap-
18 plicable legal requirements;

19 (D) whether a project—

20 (i) promotes and applies a regional or
21 watershed perspective to water resource
22 management or cross-boundary issues;

23 (ii) implements an integrated re-
24 sources management approach;

1 (iii) increases water management
2 flexibility; or

3 (iv) forms a partnership with other
4 entities; and

5 (E) whether a project provides benefits
6 outside the region in which the project is car-
7 ried out.

8 (c) COST-SHARING REQUIREMENT.—

9 (1) FEDERAL SHARE.—The Federal share of
10 the cost of the planning and construction of a
11 project shall be the amount established by the Sec-
12 retary in the feasibility report for the project under
13 section 5(c)(1)(D)(i).

14 (2) NON-FEDERAL SHARE.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the non-Federal share shall
17 be not less than 25 percent of the cost of plan-
18 ning and construction of the project, but not
19 more than the amount established by the Sec-
20 retary in the feasibility report for the project
21 under section 5(c)(1)(D)(i).

22 (B) REDUCED NON-FEDERAL SHARE.—
23 The Secretary may reduce the non-Federal
24 share of the cost of the planning and construc-
25 tion of a project under subparagraph (A) if the

1 Secretary determines that the amount of the
2 non-Federal share required by that subpara-
3 graph would result in economic hardship for the
4 non-Federal project entity.

5 (C) LIMITATION.—Grants from other Fed-
6 eral sources shall not be credited toward the
7 non-Federal share required by this paragraph.

8 **SEC. 4. APPRAISAL INVESTIGATIONS.**

9 (a) IN GENERAL.—On request of a non-Federal
10 project entity, the Secretary, in cooperation with the non-
11 Federal project entity and in consultation with appro-
12 priate State, regional, local, and tribal authorities, may
13 conduct an appraisal investigation of a project to deter-
14 mine whether—

15 (1) the project meets the criteria developed
16 under section (3)(b); and

17 (2) the Secretary should initiate a feasibility
18 study under section 5(a).

19 (b) REPORT.—On completion of the investigation
20 under subsection (a), the Secretary shall prepare an ap-
21 praisal report that includes any recommendations of the
22 Secretary with respect to whether a feasibility study
23 should be initiated for the project under section 5(a).

24 (c) COSTS.—The Secretary shall pay the costs of any
25 appraisal investigations conducted under this section.

1 **SEC. 5. FEASIBILITY STUDIES.**

2 (a) IN GENERAL.—The Secretary, in cooperation
3 with a non-Federal project entity, may carry out studies
4 to determine the feasibility of rural water supply systems
5 recommended for study under section 4(b).

6 (b) STUDY CONSIDERATIONS.—In conducting a feasi-
7 bility study under this section, the Secretary shall con-
8 sider—

9 (1) the need for the proposed project;

10 (2) short- and long-term water demand and
11 supplies in the study area;

12 (3) an evaluation of whether the resources in
13 the study area are capable of providing a safe and
14 reliable source of potable water to the communities
15 and rural areas to be served;

16 (4) any reasonable alternatives to the proposed
17 project (including nonstructural alternatives) that
18 satisfy the need for action, including an alternative
19 that is within the ability of the non-Federal project
20 entity to pay operation, maintenance, and repair
21 costs of the proposed project;

22 (5) the economic feasibility and cost effective-
23 ness of the proposed project;

24 (6) impacts of the proposed project on the nat-
25 ural and human environment;

1 (7) appropriate water conservation measures;
2 and

3 (8) the financial ability of the non-Federal
4 project entity to pay—

5 (A) the non-Federal share of any planning
6 and construction costs of the proposed project;
7 and

8 (B) 100 percent of the operation, mainte-
9 nance, and replacement costs allocated under
10 subsection (c)(1)(C)(i).

11 (c) REPORT.—

12 (1) IN GENERAL.—On completion of a feasi-
13 bility study under subsection (a), the Secretary shall
14 prepare a report that—

15 (A) describes the engineering, environ-
16 mental, and economic activities of the Secretary
17 carried out under the study;

18 (B) takes into consideration—

19 (i) the range of potential solutions for,
20 and the circumstances and needs of, the
21 area to be served by the proposed project;

22 (ii) the potential benefits to the people
23 of the study area; and

24 (iii) appropriate water conservation
25 measures;

1 (C) includes a schedule that identifies—

2 (i) the amount of operation, mainte-
3 nance, and replacement costs that should
4 be allocated to each non-Federal project
5 entity participating in the project; and

6 (ii) the current and expected financial
7 ability of each non-Federal project entity
8 to pay the allocated operation, mainte-
9 nance, and replacement costs;

10 (D)(i) specifies the Federal and non-Fed-
11 eral share of the planning and construction
12 costs of the project; and

13 (ii) allocates the non-Federal share among
14 project beneficiaries; and

15 (E) includes the recommendations of the
16 Secretary as to whether the project should be
17 carried out under this Act.

18 (2) SUBMISSION TO CONGRESS.—With respect
19 to any project that the Secretary recommends under
20 paragraph (1)(E), the Secretary shall submit to
21 Congress—

22 (A) the feasibility report for the proposed
23 project prepared under paragraph (1);

24 (B) any environmental reports associated
25 with the proposed project; and

1 (C) a request to develop and construct the
2 proposed project, as appropriate.

3 (d) PRIORITIES.—The Secretary shall establish prior-
4 ities for carrying out projects under this Act based on—

5 (1) the extent to which the project takes advan-
6 tage of—

7 (A) economic incentives; and

8 (B) the use of market-based mechanisms;

9 (2) the cost benefit of the project versus other
10 alternatives such as desalination;

11 (3) whether non-Federal project entities have
12 adequate fiscal controls in place to manage the
13 project; and

14 (4) the extent to which the project involves
15 partnerships.

16 (e) COST-SHARING REQUIREMENT.—

17 (1) FEDERAL SHARE.—The Federal share of
18 the cost of a feasibility study carried out under this
19 section shall not exceed 50 percent of the study
20 costs.

21 (2) FORM OF NON-FEDERAL SHARE.—The non-
22 Federal share under paragraph (1) may be in the
23 form of any in-kind services that the Secretary de-
24 termines would contribute substantially toward the
25 conduct and completion of the study.

1 (f) REIMBURSEMENT OF COSTS.—If a project is con-
2 structed under the program, the Federal share of feasi-
3 bility studies shall be—

4 (1) considered to be project costs; and

5 (2) reimbursed in accordance with Reclamation
6 law.

7 **SEC. 6. OPERATION, MAINTENANCE, AND REPLACEMENT**
8 **COSTS.**

9 (a) IN GENERAL.—To be eligible to carry out a
10 project under this Act, a non-Federal project entity shall
11 establish, to the satisfaction of the Secretary, that the
12 non-Federal project entity has the ability to pay all oper-
13 ation, maintenance, and replacement costs of the project
14 facilities.

15 (b) PLAN.—The non-Federal project entity, in con-
16 sultation with the Secretary, shall develop an operation,
17 maintenance, and replacement plan to provide the nec-
18 essary framework to assist the non-Federal project entity
19 in establishing rates and fees for project beneficiaries.

20 **SEC. 7. MISCELLANEOUS PROVISIONS.**

21 (a) AUTHORITY OF SECRETARY.—The Secretary may
22 enter into contracts, financial assistance agreements, and
23 such other agreements, and promulgate such regulations,
24 as are necessary to carry out this Act.

1 (b) LIMITATION ON USE OF FUNDS.—None of the
2 funds made available to the Secretary for planning or con-
3 struction of a rural water supply project developed under
4 the program may be used to plan or construct facilities
5 used to supply water for irrigation.

6 (c) TITLE TO PROJECTS.—Title to the components
7 of rural water supply projects planned, designed, and con-
8 structed under the program shall be held by the non-Fed-
9 eral project entity.

10 **SEC. 8. EFFECT ON FEDERAL RECLAMATION LAW.**

11 Nothing in this Act supersedes or amends—

12 (1) Reclamation law; or

13 (2) any Federal law associated with a project,
14 or portion of a project constructed under Reclama-
15 tion law.

16 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) IN GENERAL.—There is authorized to be appro-
18 priated to carry out this Act \$70,000,000 for fiscal year
19 2004 and each fiscal year thereafter.

20 (b) CONSTRUCTION COST INDEXING.—

21 (1) IN GENERAL.—Any amounts appropriated
22 for the planning and construction of projects under
23 this Act shall include such sums as are necessary to
24 defray increases in development costs reflected in
25 appropriate engineering cost indices after the com-

1 pletion date of the applicable feasibility report, to re-
2 main available until expended.

3 (2) COST SHARING.—The Federal and non-Fed-
4 eral share of cost increases due to inflation shall be
5 allocated in amounts that are proportionate to the
6 allocation determined under section 3(c).

○