

**Calendar No. 987**

110TH CONGRESS  
2D SESSION

**S. 2805**

To direct the Secretary of the Interior, acting through the Commissioner of Reclamation, to assess the irrigation infrastructure of the Rio Grande Pueblos in the State of New Mexico and provide grants to, and enter into cooperative agreements with, the Rio Grande Pueblos to repair, rehabilitate, or reconstruct existing infrastructure, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 2, 2008

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

SEPTEMBER 16, 2008

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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**A BILL**

To direct the Secretary of the Interior, acting through the Commissioner of Reclamation, to assess the irrigation infrastructure of the Rio Grande Pueblos in the State of New Mexico and provide grants to, and enter into cooperative agreements with, the Rio Grande Pueblos to repair, rehabilitate, or reconstruct existing infrastructure, 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 “Rio Grande Pueblos  
 5       Irrigation Infrastructure Improvement Act”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) **FINDINGS.**—Congress finds that—

8               (1) drought, population increases, and environ-  
 9               mental needs are exacerbating water supply issues  
 10              across the western United States, including the Rio  
 11              Grande Basin in New Mexico;

12             (2) a report developed by the Bureau of Ree-  
 13             lamation and the Bureau of Indian Affairs in 2000  
 14             identified a serious need for the rehabilitation and  
 15             repair of irrigation infrastructure of the Rio Grande  
 16             Pueblos;

17             (3) inspection of existing irrigation infrastruc-  
 18             ture of the Rio Grande Pueblos shows that many  
 19             key facilities, such as diversion structures and main  
 20             conveyance ditches, are unsafe and barely, if at all,  
 21             operable;

22             (4) the benefits of rehabilitating and repairing  
 23             irrigation infrastructure of the Rio Grande Pueblos  
 24             include—

25                       (A) water conservation;

1                   ~~(B)~~ extending available water supplies;  
 2                   ~~(C)~~ increased agricultural productivity;  
 3                   ~~(D)~~ economic benefits;  
 4                   ~~(E)~~ safer facilities; and  
 5                   ~~(F)~~ the preservation of the culture of In-  
 6           dian Pueblos in the State;

7           ~~(5)~~ certain Indian Pueblos in the Rio Grande  
 8           Basin receive water from facilities operated or owned  
 9           by the Bureau of Reclamation; and  
 10           ~~(6)~~ rehabilitation and repair of irrigation infra-  
 11           structure of the Rio Grande Pueblos would im-  
 12           prove—

13                   ~~(A)~~ overall water management by the Bu-  
 14           reau of Reclamation; and

15                   ~~(B)~~ the ability of the Bureau of Reclama-  
 16           tion to help address potential water supply con-  
 17           flicts in the Rio Grande Basin.

18           ~~(b)~~ PURPOSE.—The purpose of this Act is to direct  
 19   the Secretary—

20                   ~~(1)~~ to assess the condition of the irrigation in-  
 21           frastructure of the Rio Grande Pueblos;

22                   ~~(2)~~ to establish priorities for the rehabilitation  
 23           of irrigation infrastructure of the Rio Grande Pueb-  
 24           los in accordance with specified criteria; and

1           ~~(3)~~ to implement projects to rehabilitate and  
 2           improve the irrigation infrastructure of the Rio  
 3           Grande Pueblos.

4   **SEC. 3. DEFINITIONS.**

5           In this Act:

6           ~~(1)~~ 2004 AGREEMENT.—The term “2004  
 7           Agreement” means the agreement entitled “Agree-  
 8           ment By and Between the United States of America  
 9           and the Middle Rio Grande Conservancy District,  
 10          Providing for the Payment of Operation and Mainte-  
 11          nance Charges on Newly Reclaimed Pueblo Indian  
 12          Lands in the Middle Rio Grande Valley, New Mex-  
 13          ico” and executed in September 2004 (including any  
 14          successor agreements and amendments to the agree-  
 15          ment).

16          ~~(2)~~ DESIGNATED ENGINEER.—The term “des-  
 17          ignated engineer” means a Federal employee des-  
 18          ignated under the Act of February 14, 1927 (69  
 19          Stat. 1098, chapter 138) to represent the United  
 20          States in any action involving the maintenance, re-  
 21          habilitation, or preservation of the condition of any  
 22          irrigation structure or facility on land located in the  
 23          Six Middle Rio Grande Pueblos.

1           ~~(3)~~ DISTRICT.—The term “District” means the  
 2 Middle Rio Grande Conservancy District, a political  
 3 subdivision of the State established in 1925.

4           ~~(4)~~ PUEBLO IRRIGATION INFRASTRUCTURE.—  
 5 The term “Pueblo irrigation infrastructure” means  
 6 any diversion structure, conveyance facility, or  
 7 drainage facility located on land of a Rio Grande  
 8 Pueblo that is associated with the delivery of water  
 9 for the irrigation of agricultural land.

10          ~~(5)~~ RIO GRANDE BASIN.—The term “Rio  
 11 Grande Basin” means the headwaters of the Rio  
 12 Chama and the Rio Grande Rivers (including any  
 13 tributaries) from the State line between Colorado  
 14 and New Mexico downstream to the elevation cor-  
 15 responding with the spillway crest of Elephant Butte  
 16 Dam at 4,457.3 feet mean sea level.

17          ~~(6)~~ RIO GRANDE PUEBLO.—The term “Rio  
 18 Grande Pueblo” means any of the 18 Pueblos that—

19               ~~(A)~~ occupy land in the Rio Grande Basin;  
 20               and

21               ~~(B)~~ are included on the list of federally  
 22 recognized Indian tribes published by the Sec-  
 23 retary in accordance with section 104 of the  
 24 Federally Recognized Indian Tribe List Act of  
 25 1994 (25 U.S.C. 479a-1).

1           (7) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior, acting through the  
3           Commissioner of Reclamation.

4           (8) SIX MIDDLE RIO GRANDE PUEBLOS.—The  
5           term “Six Middle Rio Grande Pueblos” means each  
6           of the Pueblos of Cochiti, Santo Domingo, San  
7           Felipe, Santa Ana, Sandia, and Isleta.

8           (9) SPECIAL PROJECT.—The term “special  
9           project” has the meaning given the term in the 2004  
10          Agreement.

11          (10) STATE.—The term “State” means the  
12          State of New Mexico.

13   **SEC. 4. IRRIGATION INFRASTRUCTURE STUDY.**

14          (a) STUDY.—

15           (1) IN GENERAL.—On the date of enactment of  
16           this Act, the Secretary, in accordance with para-  
17           graph (2), and in consultation with the Rio Grande  
18           Pueblos, shall—

19                   (A) conduct a study of Pueblo irrigation  
20                   infrastructure; and

21                   (B) based on the results of the study, de-  
22                   velop a list of projects (including a cost esti-  
23                   mate for each project), that are recommended  
24                   to be implemented over a 10-year period to re-

1 pair, rehabilitate, or reconstruct Pueblo irriga-  
 2 tion infrastructure.

3 ~~(2) REQUIRED CONSENT.~~—The Secretary shall  
 4 carry out paragraph (1) with the consent of each  
 5 Pueblo that notifies the Secretary of the intention of  
 6 the Pueblo to participate in—

7 (A) the conduct of the study under para-  
 8 graph (1)(A); and

9 (B) the development of the list of projects  
 10 under paragraph (1)(B).

11 ~~(b) PRIORITY.~~—

12 ~~(1) CONSIDERATION OF FACTORS.~~—

13 (A) ~~IN GENERAL.~~—In developing the list of  
 14 projects under subsection (a)(1)(B), the Sec-  
 15 retary shall—

16 (i) consider each of the factors de-  
 17 scribed in paragraph (2); and

18 (ii) prioritize the projects rec-  
 19 ommended for implementation based on—

20 (I) a review of each of the fac-  
 21 tors; and

22 (II) a consideration of the pro-  
 23 jected benefits of the project on com-  
 24 pletion of the project.

1           ~~(B) ELIGIBILITY OF PROJECTS.—~~A project  
 2           is eligible to be considered and prioritized by  
 3           the Secretary if the project addresses at least 1  
 4           factor described in paragraph ~~(2)~~.

5           ~~(2) FACTORS.—~~The factors referred to in para-  
 6           graph ~~(1)~~ are—

7                     ~~(A)(i)~~ the extent of disrepair of the Pueblo  
 8                     irrigation infrastructure; and

9                     ~~(ii)~~ the effect of the disrepair on the ability  
 10                    of the applicable Rio Grande Pueblo to irrigate  
 11                    agricultural land using Pueblo irrigation infra-  
 12                    structure;

13                   ~~(B)~~ whether, and the extent that, the re-  
 14                    pair, rehabilitation, or reconstruction of the  
 15                    Pueblo irrigation infrastructure would provide  
 16                    an opportunity to conserve water;

17                   ~~(C)(i)~~ the economic and cultural impacts  
 18                    that the Pueblo irrigation infrastructure that is  
 19                    in disrepair has on the applicable Rio Grande  
 20                    Pueblo; and

21                   ~~(ii)~~ the economic and cultural benefits that  
 22                    the repair, rehabilitation, or reconstruction of  
 23                    the Pueblo irrigation infrastructure would have  
 24                    on the applicable Rio Grande Pueblo;



1           ~~(D)~~ the opportunity to address water sup-  
 2           ply or environmental conflicts in the applicable  
 3           river basin if the Pueblo irrigation infrastruc-  
 4           ture is repaired, rehabilitated, or reconstructed;  
 5           and

6           ~~(E)~~ the overall benefits of the project to ef-  
 7           ficient water operations on the land of the ap-  
 8           plicable Rio Grande Pueblo.

9       ~~(c)~~ CONSULTATION.—In developing the list of  
 10 projects under subsection ~~(a)(1)(B)~~, the Secretary shall  
 11 consult with the Director of the Bureau of Indian Affairs  
 12 (including the designated engineer with respect to each  
 13 proposed project that affects the Six Middle Rio Grande  
 14 Pueblos), the Chief of the Natural Resources Conservation  
 15 Service, and the Chief of Engineers to evaluate the extent  
 16 to which programs under the jurisdiction of the respective  
 17 agencies may be used—

18           ~~(1)~~ to assist in evaluating projects to repair, re-  
 19           habilitate, or reconstruct Pueblo irrigation infra-  
 20           structure; and

21           ~~(2)~~ to implement—

22                   ~~(A)~~ a project recommended for implemen-  
 23                   tation under subsection ~~(a)(1)(B)~~; or

24                   ~~(B)~~ any other related project (including  
 25                   on-farm improvements) that may be appro-

1           priately coordinated with the repair, rehabilita-  
 2           tion, or reconstruction of Pueblo irrigation in-  
 3           frastructure to improve the efficient use of  
 4           water in the Rio Grande Basin.

5       (d) REPORT.—Not later than 18 months after the  
 6       date of enactment of this Act, the Secretary shall submit  
 7       to the Committee on Energy and Natural Resources of  
 8       the Senate and the Committee on Resources of the House  
 9       of Representatives a report that includes—

10           (1) the list of projects recommended for imple-  
 11           mentation under subsection (a)(1)(B); and

12           (2) any findings of the Secretary with respect  
 13           to—

14                   (A) the study conducted under subsection  
 15                   (a)(1)(A);

16                   (B) the consideration of the factors under  
 17                   subsection (b)(2); and

18                   (C) the consultations under subsection (c).

19       (e) BIENNIAL REVIEW.—Not later than 2 years after  
 20       the date on which the Secretary submits the report under  
 21       subsection (d) and biennially thereafter, the Secretary, in  
 22       consultation with each Rio Grande Pueblo, shall—

23           (1) review the report submitted under sub-  
 24           section (d); and

1           (2) update the list of projects described in sub-  
 2           section (d)(1) in accordance with each factor de-  
 3           scribed in subsection (b)(2), as the Secretary deter-  
 4           mines to be appropriate.

5 **SEC. 5. IRRIGATION INFRASTRUCTURE GRANTS.**

6           (a) IN GENERAL.—The Secretary may provide grants  
 7           to, and enter into cooperative agreements with, the Rio  
 8           Grande Pueblos to plan, design, construct, or otherwise  
 9           implement projects to repair, rehabilitate, reconstruct, or  
 10          replace Pueblo irrigation infrastructure that are rec-  
 11          ommended for implementation under section 4(a)(1)(B)—

12           (1) to increase water use efficiency and agricul-  
 13           tural productivity for the benefit of a Rio Grande  
 14           Pueblo;

15           (2) to conserve water; or

16           (3) to otherwise enhance water management or  
 17           help avert water supply conflicts in the Rio Grande  
 18           Basin.

19           (b) LIMITATION.—Assistance provided under sub-  
 20          section (a) shall not be used for—

21           (1) the repair, rehabilitation, or reconstruction  
 22           of any major impoundment structure;

23           (2) any on-farm improvements; or

24           (3) the rehabilitation of any Pueblo irrigation  
 25          infrastructure for the purpose of irrigating Rio

1 Grande Pueblo land that has not been historically ir-  
 2 rigated.

3 ~~(c) CONSULTATION.—In carrying out a project under~~  
 4 subsection (a), the Secretary shall—

5 (1) consult with, and obtain the approval of, the  
 6 applicable Rio Grande Pueblo;

7 (2) consult with the Director of the Bureau of  
 8 Indian Affairs; and

9 ~~(3) as appropriate, coordinate the project with~~  
 10 any work being conducted under the irrigation oper-  
 11 ations and maintenance program of the Bureau of  
 12 Indian Affairs.

13 ~~(d) COST-SHARING REQUIREMENT.—~~

14 (1) ~~FEDERAL SHARE.—~~

15 ~~(A) IN GENERAL.—Except as provided in~~  
 16 subparagraph (B), the Federal share of the  
 17 total cost of carrying out a project under sub-  
 18 section (a) shall be not more than 75 percent.

19 ~~(B) EXCEPTION.—The Secretary may~~  
 20 waive or limit the non-Federal share required  
 21 under subparagraph (A) if the Secretary deter-  
 22 mines, based on a demonstration of financial  
 23 hardship by the Rio Grande Pueblo, that the  
 24 Rio Grande Pueblo is unable to contribute the  
 25 required non-Federal share.

(2) DISTRICT CONTRIBUTIONS.—

(A) IN GENERAL.—The Secretary may accept from the District a partial or total contribution toward the non-Federal share required for a project carried out under subsection (a) on land located in any of the Six Middle Rio Grande Pueblos if the Secretary determines that the project is a special project.

(B) LIMITATION.—Nothing in subparagraph (A) requires the District to contribute to the non-Federal share of the cost of a project carried out under subsection (a).

(3) STATE CONTRIBUTIONS.—

(A) IN GENERAL.—The Secretary may accept from the State a partial or total contribution toward the non-Federal share for a project carried out under subsection (a).

(B) LIMITATION.—Nothing in subparagraph (A) requires the State to contribute to the non-Federal share of the cost of a project carried out under subsection (a).

(4) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1)(A) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Sec-

1       retary determines would substantially contribute to a  
2       project carried out under subsection (a).

3       (c) OPERATION AND MAINTENANCE.—The Secretary  
4       may not use any amount made available under section  
5       8(b) to carry out the operation or maintenance of any  
6       project carried out under subsection (a).

7       **SEC. 6. EFFECT ON EXISTING AUTHORITY AND RESPON-**  
8       **SIBILITIES.**

9       Nothing in this Act—

10       (1) affects any existing project-specific funding  
11       authority; or

12       (2) limits or absolves the United States from  
13       any responsibility to any Rio Grande Pueblo (includ-  
14       ing any responsibility arising from a trust relation-  
15       ship or from any Federal law (including regula-  
16       tions), Executive order, or agreement between the  
17       Federal Government and any Rio Grande Pueblo).

18       **SEC. 7. EFFECT ON PUEBLO WATER RIGHTS OR STATE**  
19       **WATER LAW.**

20       (a) PUEBLO WATER RIGHTS.—Nothing in this Act  
21       (including the implementation of any project carried out  
22       in accordance with this Act) affects the right of any Pueb-  
23       lo to receive, divert, store, or claim a right to water, in-  
24       cluding the priority of right and the quantity of water as-  
25       sociated with the water right under Federal or State law.

1       (b) ~~STATE WATER LAW.~~—Nothing in this Act pre-  
2       empts or affects—

3               (1) ~~State water law; or~~

4               (2) ~~an interstate compact governing water.~~

5       **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

6       (a) ~~STUDY.~~—There is authorized to be appropriated  
7       to carry out section 4 ~~\$4,000,000.~~

8       (b) ~~PROJECTS.~~—There is authorized to be appro-  
9       priated to carry out section 5 ~~\$6,000,000~~ for each of fiscal  
10       years ~~2010 through 2019.~~

11       **SECTION 1. SHORT TITLE.**

12               *This Act may be cited as the “Rio Grande Pueblos Ir-*  
13       *rigation Infrastructure Improvement Act”.*

14       **SEC. 2. FINDINGS AND PURPOSE.**

15       (a) *FINDINGS.*—Congress finds that—

16               (1) *drought, population increases, and environ-*  
17       *mental needs are exacerbating water supply issues*  
18       *across the western United States, including the Rio*  
19       *Grande Basin in New Mexico;*

20               (2) *a report developed by the Bureau of Rec-*  
21       *lamation and the Bureau of Indian Affairs in 2000*  
22       *identified a serious need for the rehabilitation and re-*  
23       *pair of irrigation infrastructure of the Rio Grande*  
24       *Pueblos;*

1           (3) inspection of existing irrigation infrastruc-  
 2           ture of the Rio Grande Pueblos shows that many key  
 3           facilities, such as diversion structures and main con-  
 4           veyance ditches, are unsafe and barely, if at all, oper-  
 5           able;

6           (4) the benefits of rehabilitating and repairing  
 7           irrigation infrastructure of the Rio Grande Pueblos  
 8           include—

9                   (A) water conservation;

10                   (B) extending available water supplies;

11                   (C) increased agricultural productivity;

12                   (D) economic benefits;

13                   (E) safer facilities; and

14                   (F) the preservation of the culture of Indian  
 15           Pueblos in the State;

16           (5) certain Indian Pueblos in the Rio Grande  
 17           Basin receive water from facilities operated or owned  
 18           by the Bureau of Reclamation; and

19           (6) rehabilitation and repair of irrigation infra-  
 20           structure of the Rio Grande Pueblos would improve—

21                   (A) overall water management by the Bu-  
 22           reau of Reclamation; and

23                   (B) the ability of the Bureau of Reclama-  
 24           tion to help address potential water supply con-  
 25           flicts in the Rio Grande Basin.



1       (b) *PURPOSE.*—*The purpose of this Act is to direct the*  
 2   *Secretary—*

3               (1) *to assess the condition of the irrigation infra-*  
 4   *structure of the Rio Grande Pueblos;*

5               (2) *to establish priorities for the rehabilitation of*  
 6   *irrigation infrastructure of the Rio Grande Pueblos*  
 7   *in accordance with specified criteria; and*

8               (3) *to implement projects to rehabilitate and im-*  
 9   *prove the irrigation infrastructure of the Rio Grande*  
 10   *Pueblos.*

11   **SEC. 3. DEFINITIONS.**

12       *In this Act:*

13               (1) *2004 AGREEMENT.*—*The term “2004 Agree-*  
 14   *ment” means the agreement entitled “Agreement By*  
 15   *and Between the United States of America and the*  
 16   *Middle Rio Grande Conservancy District, Providing*  
 17   *for the Payment of Operation and Maintenance*  
 18   *Charges on Newly Reclaimed Pueblo Indian Lands in*  
 19   *the Middle Rio Grande Valley, New Mexico” and exe-*  
 20   *cuted in September 2004 (including any successor*  
 21   *agreements and amendments to the agreement).*

22               (2) *DESIGNATED ENGINEER.*—*The term “des-*  
 23   *ignated engineer” means a Federal employee des-*  
 24   *ignated under the Act of February 14, 1927 (69 Stat.*  
 25   *1098, chapter 138) to represent the United States in*

1     *any action involving the maintenance, rehabilitation,*  
 2     *or preservation of the condition of any irrigation*  
 3     *structure or facility on land located in the Six Middle*  
 4     *Rio Grande Pueblos.*

5             (3) *DISTRICT.*—*The term “District” means the*  
 6     *Middle Rio Grande Conservancy District, a political*  
 7     *subdivision of the State established in 1925.*

8             (4) *PUEBLO IRRIGATION INFRASTRUCTURE.*—*The*  
 9     *term “Pueblo irrigation infrastructure” means any*  
 10    *diversion structure, conveyance facility, or drainage*  
 11    *facility that is—*

12                 (A) *in existence as of the date of enactment*  
 13         *of this Act; and*

14                 (B) *located on land of a Rio Grande Pueblo*  
 15         *that is associated with—*

16                         (i) *the delivery of water for the irriga-*  
 17                         *tion of agricultural land; or*

18                         (ii) *the carriage of irrigation return*  
 19                         *flows and excess water from the land that is*  
 20                         *served.*

21             (5) *RIO GRANDE BASIN.*—*The term “Rio Grande*  
 22     *Basin” means the headwaters of the Rio Chama and*  
 23     *the Rio Grande Rivers (including any tributaries)*  
 24     *from the State line between Colorado and New Mexico*  
 25     *downstream to the elevation corresponding with the*

1        *spillway crest of Elephant Butte Dam at 4,457.3 feet*  
 2        *mean sea level.*

3            (6) *RIO GRANDE PUEBLO.*—*The term “Rio*  
 4        *Grande Pueblo” means any of the 18 Pueblos that—*

5            (A) *occupy land in the Rio Grande Basin;*  
 6        *and*

7            (B) *are included on the list of federally rec-*  
 8        *ognized Indian tribes published by the Secretary*  
 9        *in accordance with section 104 of the Federally*  
 10       *Recognized Indian Tribe List Act of 1994 (25*  
 11       *U.S.C. 479a–1).*

12          (7) *SECRETARY.*—*The term “Secretary” means*  
 13        *the Secretary of the Interior, acting through the Com-*  
 14        *missioner of Reclamation.*

15          (8) *SIX MIDDLE RIO GRANDE PUEBLOS.*—*The*  
 16        *term “Six Middle Rio Grande Pueblos” means each*  
 17        *of the Pueblos of Cochiti, Santo Domingo, San Felipe,*  
 18        *Santa Ana, Sandia, and Isleta.*

19          (9) *SPECIAL PROJECT.*—*The term “special*  
 20        *project” has the meaning given the term in the 2004*  
 21        *Agreement.*

22          (10) *STATE.*—*The term “State” means the State*  
 23        *of New Mexico.*

24    **SEC. 4. IRRIGATION INFRASTRUCTURE STUDY.**

25          (a) *STUDY.*—

1           (1) *IN GENERAL.*—On the date of enactment of  
 2       this Act, the Secretary, in accordance with paragraph  
 3       (2), and in consultation with the Rio Grande Pueblos,  
 4       shall—

5                     (A) conduct a study of Pueblo irrigation in-  
 6       frastructure; and

7                     (B) based on the results of the study, de-  
 8       velop a list of projects (including a cost estimate  
 9       for each project), that are recommended to be im-  
 10      plemented over a 10-year period to repair, reha-  
 11      bilitate, or reconstruct Pueblo irrigation infra-  
 12      structure.

13           (2) *REQUIRED CONSENT.*—In carrying out para-  
 14      graph (1), the Secretary shall only include each indi-  
 15      vidual Rio Grande Pueblo that notifies the Secretary  
 16      that the Pueblo consents to participate in—

17                     (A) the conduct of the study under para-  
 18      graph (1)(A); and

19                     (B) the development of the list of projects  
 20      under paragraph (1)(B) with respect to the  
 21      Pueblo.

22       (b) *PRIORITY.*—

23           (1) *CONSIDERATION OF FACTORS.*—

1           (A) *IN GENERAL.*—*In developing the list of*  
 2           *projects under subsection (a)(1)(B), the Secretary*  
 3           *shall—*

4                   (i) *consider each of the factors de-*  
 5                   *scribed in paragraph (2); and*

6                   (ii) *prioritize the projects rec-*  
 7                   *ommended for implementation based on—*

8                           (I) *a review of each of the factors;*

9                           *and*

10                           (II) *a consideration of the pro-*  
 11                           *jected benefits of the project on comple-*  
 12                           *tion of the project.*

13           (B) *ELIGIBILITY OF PROJECTS.*—*A project*  
 14           *is eligible to be considered and prioritized by the*  
 15           *Secretary if the project addresses at least 1 factor*  
 16           *described in paragraph (2).*

17           (2) *FACTORS.*—*The factors referred to in para-*  
 18           *graph (1) are—*

19                   (A)(i) *the extent of disrepair of the Pueblo*  
 20                   *irrigation infrastructure; and*

21                   (ii) *the effect of the disrepair on the ability*  
 22                   *of the applicable Rio Grande Pueblo to irrigate*  
 23                   *agricultural land using Pueblo irrigation infra-*  
 24                   *structure;*

1           (B) whether, and the extent that, the repair,  
2           rehabilitation, or reconstruction of the Pueblo ir-  
3           rigation infrastructure would provide an oppor-  
4           tunity to conserve water;

5           (C)(i) the economic and cultural impacts  
6           that the Pueblo irrigation infrastructure that is  
7           in disrepair has on the applicable Rio Grande  
8           Pueblo; and

9           (ii) the economic and cultural benefits that  
10          the repair, rehabilitation, or reconstruction of  
11          the Pueblo irrigation infrastructure would have  
12          on the applicable Rio Grande Pueblo;

13          (D) the opportunity to address water sup-  
14          ply or environmental conflicts in the applicable  
15          river basin if the Pueblo irrigation infrastruc-  
16          ture is repaired, rehabilitated, or reconstructed;  
17          and

18          (E) the overall benefits of the project to effi-  
19          cient water operations on the land of the appli-  
20          cable Rio Grande Pueblo.

21          (c) CONSULTATION.—In developing the list of projects  
22          under subsection (a)(1)(B), the Secretary shall consult with  
23          the Director of the Bureau of Indian Affairs (including the  
24          designated engineer with respect to each proposed project  
25          that affects the Six Middle Rio Grande Pueblos), the Chief

1 *of the Natural Resources Conservation Service, and the*  
2 *Chief of Engineers to evaluate the extent to which programs*  
3 *under the jurisdiction of the respective agencies may be*  
4 *used—*

5           *(1) to assist in evaluating projects to repair, re-*  
6           *habilitate, or reconstruct Pueblo irrigation infrastruc-*  
7           *ture; and*

8           *(2) to implement—*

9                   *(A) a project recommended for implementa-*  
10                  *tion under subsection (a)(1)(B); or*

11                   *(B) any other related project (including on-*  
12                  *farm improvements) that may be appropriately*  
13                  *coordinated with the repair, rehabilitation, or re-*  
14                  *construction of Pueblo irrigation infrastructure*  
15                  *to improve the efficient use of water in the Rio*  
16                  *Grande Basin.*

17           *(d) REPORT.—Not later than 2 years after the date*  
18 *of enactment of this Act, the Secretary shall submit to the*  
19 *Committee on Energy and Natural Resources of the Senate*  
20 *and the Committee on Resources of the House of Representa-*  
21 *tives a report that includes—*

22                   *(1) the list of projects recommended for imple-*  
23                  *mentation under subsection (a)(1)(B); and*

24                   *(2) any findings of the Secretary with respect*  
25                  *to—*

1                   (A) the study conducted under subsection  
2                   (a)(1)(A);

3                   (B) the consideration of the factors under  
4                   subsection (b)(2); and

5                   (C) the consultations under subsection (c).

6           (e) *PERIODIC REVIEW*.—Not later than 4 years after  
7 the date on which the Secretary submits the report under  
8 subsection (d) and every 4 years thereafter, the Secretary,  
9 in consultation with each Rio Grande Pueblo, shall—

10           (1) review the report submitted under subsection  
11           (d); and

12           (2) update the list of projects described in sub-  
13 section (d)(1) in accordance with each factor de-  
14 scribed in subsection (b)(2), as the Secretary deter-  
15 mines to be appropriate.

16 **SEC. 5. IRRIGATION INFRASTRUCTURE GRANTS.**

17           (a) *IN GENERAL*.—The Secretary may provide grants  
18 to, and enter into contracts or other agreements with, the  
19 Rio Grande Pueblos to plan, design, construct, or otherwise  
20 implement projects to repair, rehabilitate, reconstruct, or  
21 replace Pueblo irrigation infrastructure that are rec-  
22 ommended for implementation under section 4(a)(1)(B)—

23           (1) to increase water use efficiency and agricul-  
24 tural productivity for the benefit of a Rio Grande  
25 Pueblo;



1           (2) *to conserve water; or*

2           (3) *to otherwise enhance water management or*  
 3       *help avert water supply conflicts in the Rio Grande*  
 4       *Basin.*

5       (b) *LIMITATION.*—*Assistance provided under sub-*  
 6       *section (a) shall not be used for—*

7           (1) *the repair, rehabilitation, or reconstruction*  
 8       *of any major impoundment structure; or*

9           (2) *any on-farm improvements.*

10       (c) *CONSULTATION.*—*In carrying out a project under*  
 11       *subsection (a), the Secretary shall—*

12           (1) *consult with, and obtain the approval of, the*  
 13       *applicable Rio Grande Pueblo;*

14           (2) *consult with the Director of the Bureau of*  
 15       *Indian Affairs; and*

16           (3) *as appropriate, coordinate the project with*  
 17       *any work being conducted under the irrigation oper-*  
 18       *ations and maintenance program of the Bureau of In-*  
 19       *dian Affairs.*

20       (d) *COST-SHARING REQUIREMENT.*—

21           (1) *FEDERAL SHARE.*—

22           (A) *IN GENERAL.*—*Except as provided in*  
 23       *subparagraph (B), the Federal share of the total*  
 24       *cost of carrying out a project under subsection*  
 25       *(a) shall be not more than 75 percent.*

1           (B) *EXCEPTION.*—*The Secretary may waive*  
 2           *or limit the non-Federal share required under*  
 3           *subparagraph (A) if the Secretary determines,*  
 4           *based on a demonstration of financial hardship*  
 5           *by the Rio Grande Pueblo, that the Rio Grande*  
 6           *Pueblo is unable to contribute the required non-*  
 7           *Federal share.*

8           (2) *DISTRICT CONTRIBUTIONS.*—

9           (A) *IN GENERAL.*—*The Secretary may ac-*  
 10          *cept from the District a partial or total con-*  
 11          *tribution toward the non-Federal share required*  
 12          *for a project carried out under subsection (a) on*  
 13          *land located in any of the Six Middle Rio*  
 14          *Grande Pueblos if the Secretary determines that*  
 15          *the project is a special project.*

16          (B) *LIMITATION.*—*Nothing in subparagraph*  
 17          *(A) requires the District to contribute to the non-*  
 18          *Federal share of the cost of a project carried out*  
 19          *under subsection (a).*

20          (3) *STATE CONTRIBUTIONS.*—

21          (A) *IN GENERAL.*—*The Secretary may ac-*  
 22          *cept from the State a partial or total contribu-*  
 23          *tion toward the non-Federal share for a project*  
 24          *carried out under subsection (a).*

1                   (B) *LIMITATION.*—*Nothing in subparagraph*  
 2                   (A) *requires the State to contribute to the non-*  
 3                   *Federal share of the cost of a project carried out*  
 4                   *under subsection (a).*

5                   (4) *FORM OF NON-FEDERAL SHARE.*—*The non-*  
 6                   *Federal share under paragraph (1)(A) may be in the*  
 7                   *form of in-kind contributions, including the contribu-*  
 8                   *tion of any valuable asset or service that the Sec-*  
 9                   *retary determines would substantially contribute to a*  
 10                  *project carried out under subsection (a).*

11                  (e) *OPERATION AND MAINTENANCE.*—*The Secretary*  
 12                  *may not use any amount made available under section 8(b)*  
 13                  *to carry out the operation or maintenance of any project*  
 14                  *carried out under subsection (a).*

15   **SEC. 6. EFFECT ON EXISTING AUTHORITY AND RESPON-**  
 16                   **SIBILITIES.**

17                  *Nothing in this Act—*

18                   (1) *affects any existing project-specific funding*  
 19                   *authority; or*

20                   (2) *limits or absolves the United States from any*  
 21                   *responsibility to any Rio Grande Pueblo (including*  
 22                   *any responsibility arising from a trust relationship*  
 23                   *or from any Federal law (including regulations), Ex-*  
 24                   *ecutive order, or agreement between the Federal Gov-*  
 25                   *ernment and any Rio Grande Pueblo).*

1 **SEC. 7. EFFECT ON PUEBLO WATER RIGHTS OR STATE**  
 2 **WATER LAW.**

3 (a) *PUEBLO WATER RIGHTS.*—*Nothing in this Act*  
 4 *(including the implementation of any project carried out*  
 5 *in accordance with this Act) affects the right of any Pueblo*  
 6 *to receive, divert, store, or claim a right to water, including*  
 7 *the priority of right and the quantity of water associated*  
 8 *with the water right under Federal or State law.*

9 (b) *STATE WATER LAW.*—*Nothing in this Act pre-*  
 10 *empts or affects—*

11 (1) *State water law; or*

12 (2) *an interstate compact governing water.*

13 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) *STUDY.*—*There is authorized to be appropriated*  
 15 *to carry out section 4 \$4,000,000.*

16 (b) *PROJECTS.*—*There is authorized to be appro-*  
 17 *priated to carry out section 5 \$6,000,000 for each of fiscal*  
 18 *years 2010 through 2019.*



Calendar No. 987

110TH CONGRESS  
2D Session

**S. 2805**

**A BILL**

To direct the Secretary of the Interior, acting through the Commissioner of Reclamation, to assess the irrigation infrastructure of the Rio Grande Pueblos in the State of New Mexico and provide grants to, and enter into cooperative agreements with, the Rio Grande Pueblos to repair, rehabilitate, or reconstruct existing infrastructure, and for other purposes.

SEPTEMBER 16, 2008

Reported with an amendment