

110TH CONGRESS  
1ST SESSION

# S. 728

To authorize the Secretary of the Army to carry out restoration projects  
along the Middle Rio Grande.

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## IN THE SENATE OF THE UNITED STATES

MARCH 1, 2007

Mr. DOMENICI introduced the following bill; which was read twice and referred  
to the Committee on Environment and Public Works

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## A BILL

To authorize the Secretary of the Army to carry out  
restoration projects along the Middle Rio Grande.

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. FINDINGS.**

4       Congress finds that—

5               (1) the Middle Rio Grande bosque is—

6                       (A) a unique riparian forest along the Mid-  
7               dle Rio Grande in New Mexico;

8                       (B) the largest continuous cottonwood for-  
9               est in the Southwest;

1 (C) one of the oldest continuously inhab-  
 2 ited areas in the United States;

3 (D) home to portions of 6 pueblos; and

4 (E) a critical flyway and wintering ground  
 5 for migratory birds;

6 (2) the portion of the Middle Rio Grande adja-  
 7 cent to the Middle Rio Grande bosque provides  
 8 water to many people in the State of New Mexico;

9 (3) the Middle Rio Grande bosque should be  
 10 maintained in a manner that protects endangered  
 11 species and the flow of the Middle Rio Grande while  
 12 making the Middle Rio Grande bosque more acces-  
 13 sible to the public;

14 (4) environmental restoration is an important  
 15 part of the mission of the Corps of Engineers; and

16 (5) the Corps of Engineers should reestablish,  
 17 where feasible, the hydrologic connection between  
 18 the Middle Rio Grande and the Middle Rio Grande  
 19 bosque to ensure the permanent healthy growth of  
 20 vegetation native to the Middle Rio Grande bosque.

21 **SEC. 2. DEFINITIONS.**

22 In this Act:

23 (1) MIDDLE RIO GRANDE.—The term “Middle  
 24 Rio Grande” means the portion of the Rio Grande

1 from Cochiti Dam to the headwaters of Elephant  
2 Butte Reservoir, in the State of New Mexico.

3 (2) RESTORATION PROJECT.—The term “res-  
4 toration project” means a project carried out under  
5 this Act that will produce, consistent with other  
6 Federal programs, projects, and activities, imme-  
7 diate and substantial ecosystem restoration, preser-  
8 vation, recreation, and protection benefits.

9 (3) SECRETARY.—The term “Secretary” means  
10 the Secretary of the Army.

11 **SEC. 3. MIDDLE RIO GRANDE RESTORATION.**

12 (a) RESTORATION PROJECTS.—The Secretary shall  
13 carry out restoration projects along the Middle Rio  
14 Grande.

15 (b) PROJECT SELECTION.—

16 (1) IN GENERAL.—The Secretary may select  
17 restoration projects in the Middle Rio Grande based  
18 on feasibility studies.

19 (2) USE OF EXISTING STUDIES AND PLANS.—  
20 In carrying out subsection (a), the Secretary shall  
21 use, to the maximum extent practicable, studies and  
22 plans in existence on the date of enactment of this  
23 Act to identify the needs and priorities for restora-  
24 tion projects.

1 (c) LOCAL PARTICIPATION.—In carrying out this  
 2 Act, the Secretary shall consult with—

3 (1) the Middle Rio Grande Endangered Species  
 4 Act Collaborative Program; and

5 (2) the Bosque Improvement Group of the Mid-  
 6 dle Rio Grande Bosque Initiative.

7 (d) COST SHARING.—

8 (1) COST-SHARING AGREEMENT.—Before car-  
 9 rying out any restoration project under this Act, the  
 10 Secretary shall enter into an agreement with the  
 11 non-Federal interests that shall require the non-Fed-  
 12 eral interests—

13 (A) to pay 25 percent of the total costs of  
 14 the restoration project through in-kind services  
 15 or direct cash contributions, including the cost  
 16 of providing necessary land, easements, rights-  
 17 of-way, relocations, and disposal sites;

18 (B) to pay 100 percent of the operation,  
 19 maintenance, repair, replacement, and rehabili-  
 20 tation costs associated with the restoration  
 21 project that are incurred after the date of en-  
 22 actment of this Act; and

23 (C) to hold the United States harmless for  
 24 any claim or damage that may arise from the

1 negligence of the Federal Government or a con-  
2 tractor of the Federal Government.

3 (2) NON-FEDERAL INTERESTS.—Notwith-  
4 standing section 221 of the Flood Control Act of  
5 1970 (42 U.S.C. 1962d–5b), a non-Federal interest  
6 carrying out a restoration project under this Act  
7 may include a nonprofit entity.

8 (3) RECREATIONAL FEATURES.—

9 (A) IN GENERAL.—Any recreational fea-  
10 tures included as part of a restoration project  
11 shall comprise not more than 30 percent of the  
12 total project cost.

13 (B) NON-FEDERAL FUNDING.—The full  
14 cost of any recreational features included as  
15 part of a restoration project in excess of the  
16 amount described in subparagraph (A) shall be  
17 paid by the non-Federal interests.

18 (4) CREDIT.—The non-Federal interests shall  
19 receive credit toward the non-Federal share of the  
20 cost of design or construction activities carried out  
21 by the non-Federal interests (including activities car-  
22 ried out before the execution of the cooperation  
23 agreement for a restoration project) if the Secretary  
24 determines that the work performed by the non-Fed-  
25 eral interest is integral to the project.

1 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated to carry out  
3 this Act—

4               (1) \$10,000,000 for fiscal year 2007; and

5               (2) such sums as are necessary for each of fis-  
6 cal years 2008 through 2016.

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