

111TH CONGRESS
1ST SESSION

H. R. 924

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2009

Mr. LUJÁN introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

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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. SHORT TITLE.**

2 This Act may be cited as the “Rio Grande Pueblos
3 Irrigation Infrastructure Improvement Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

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

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

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

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

23 (A) water conservation;

24 (B) extending available water supplies;

25 (C) increased agricultural productivity;

26 (D) economic benefits;

1 (E) safer facilities; and

2 (F) the preservation of the culture of In-
3 dian Pueblos in the State;

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

7 (6) rehabilitation and repair of irrigation infra-
8 structure of the Rio Grande Pueblos would im-
9 prove—

10 (A) overall water management by the Bu-
11 reau of Reclamation; and

12 (B) the ability of the Bureau of Reclama-
13 tion to help address potential water supply con-
14 flicts in the Rio Grande Basin.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) 2004 AGREEMENT.—The term “2004
18 Agreement” means the agreement titled “Agreement
19 By and Between the United States of America and
20 the Middle Rio Grande Conservancy District, Pro-
21 viding for the Payment of Operation and Mainte-
22 nance Charges on Newly Reclaimed Pueblo Indian
23 Lands in the Middle Rio Grande Valley, New Mex-
24 ico” and executed in September 2004 (including any

1 successor agreements and amendments to the agree-
2 ment).

3 (2) DESIGNATED ENGINEER.—The term “des-
4 ignated engineer” means a Federal employee des-
5 ignated under the Act of February 14, 1927 (69
6 Stat. 1098, chapter 138), to represent the United
7 States in any action involving the maintenance, re-
8 habilitation, or preservation of the condition of any
9 irrigation structure or facility on land located in the
10 Six Middle Rio Grande Pueblos.

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

14 (4) PUEBLO IRRIGATION INFRASTRUCTURE.—
15 The term “Pueblo irrigation infrastructure” means
16 any diversion structure, conveyance facility, or
17 drainage facility located on land of a Rio Grande
18 Pueblo that is associated with the delivery of water
19 for the irrigation of agricultural land.

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

1 responding with the spillway crest of Elephant Butte
2 Dam at 4,457.3 feet 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
8 recognized Indian tribes published by the Sec-
9 retary in accordance with section 104 of the
10 Federally Recognized Indian Tribe List Act of
11 1994 (25 U.S.C. 479a–1).

12 (7) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior, acting through the
14 Commissioner 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
18 Felipe, 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
23 State of New Mexico.

1 **SEC. 4. IRRIGATION INFRASTRUCTURE STUDY.**

2 (a) STUDY.—The Secretary, in accordance with con-
3 sultation requirements under subsection (c), shall—

4 (1) conduct a study of Pueblo irrigation infra-
5 structure; and

6 (2) based on the results of the study, develop
7 a list of projects (including a cost estimate for each
8 project) that are recommended to be implemented
9 over a 10-year period to repair, rehabilitate, or re-
10 construct Pueblo irrigation infrastructure.

11 (b) CONSIDERATION OF FACTORS; PRIORITY.—In de-
12 veloping the list of projects under subsection (a)(2), the
13 Secretary shall prioritize the projects recommended for
14 implementation based on consideration of the following
15 factors:

16 (1) The extent of disrepair of the Pueblo irriga-
17 tion infrastructure.

18 (2) The effect of the disrepair on the ability of
19 the applicable Rio Grande Pueblo to irrigate agricul-
20 tural land using Pueblo irrigation infrastructure.

21 (3) The extent that the repair, rehabilitation, or
22 reconstruction of the Pueblo irrigation infrastructure
23 would provide an opportunity to conserve water.

24 (4) The economic and cultural impacts that the
25 disrepair of the Pueblo irrigation infrastructure has
26 on the applicable Rio Grande Pueblo.

1 (5) The economic and cultural benefits that the
2 repair, rehabilitation, or reconstruction of the Pueblo
3 irrigation infrastructure would have on the applica-
4 ble Rio Grande Pueblo.

5 (6) The opportunity to address water supply or
6 environmental conflicts in the applicable river basin
7 if the Pueblo irrigation infrastructure is repaired, re-
8 habilitated, or reconstructed.

9 (7) The overall benefits of the project to effi-
10 cient water operations on the land of the applicable
11 Rio Grande Pueblo.

12 (c) CONSULTATION.—

13 (1) IN CONDUCTING STUDY.—Not later than 3
14 months after funds are made available for this Act,
15 the Secretary shall notify each Rio Grande Pueblo,
16 in writing, that—

17 (A) the Secretary shall be conducting the
18 study required by subsection (a)(1);

19 (B) the Pueblo is invited to consult with
20 the Secretary regarding the study; and

21 (C) the Pueblo shall only be eligible to con-
22 sult if, not more than 3 months after receiving
23 notice from the Secretary, the Pueblo notifies
24 the Secretary, in writing, of the Pueblo's intent
25 to consult.

1 (2) IN DEVELOPING LIST OF PROJECTS.—In de-
 2 veloping the list of projects under subsection (a)(2),
 3 the Secretary shall consult with the Director of the
 4 Bureau of Indian Affairs (including the designated
 5 engineer with respect to each proposed project that
 6 affects the Six Middle Rio Grande Pueblos), the
 7 Chief of the Natural Resources Conservation Serv-
 8 ice, and the Chief of Engineers to evaluate the ex-
 9 tent to which programs under the jurisdiction of the
 10 respective agencies may be used—

11 (A) to assist in evaluating projects to re-
 12 pair, rehabilitate, or reconstruct Pueblo irriga-
 13 tion infrastructure; and

14 (B) to implement—

15 (i) a project recommended for imple-
 16 mentation under subsection (a)(2); or

17 (ii) any other related project (includ-
 18 ing on-farm improvements) that may be
 19 appropriately coordinated with the repair,
 20 rehabilitation, or reconstruction of Pueblo
 21 irrigation infrastructure to improve the ef-
 22 ficient use of water in the Rio Grande
 23 Basin.

24 (d) REPORT.—Not later than 18 months after funds
 25 are made available for this Act, the Secretary shall submit

1 to the Committee on Natural Resources of the House of
 2 Representatives and Committee on Energy and Natural
 3 Resources of the Senate a report that includes—

4 (1) the list of projects recommended for imple-
 5 mentation under subsection (a)(2); and

6 (2) any findings of the Secretary with respect
 7 to—

8 (A) the study conducted under subsection
 9 (a)(1);

10 (B) the consideration of the factors under
 11 subsection (b); and

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

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

17 (1) review the report submitted under sub-
 18 section (d); and

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

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

24 (a) IN GENERAL.—The Secretary may provide grants
 25 to, and enter into cooperative agreements with, the Rio

1 Grande Pueblos to plan, design, construct, or otherwise
2 implement projects to repair, rehabilitate, reconstruct, or
3 replace Pueblo irrigation infrastructure that are rec-
4 ommended for implementation under section 4(a)(2)—

5 (1) to increase water use efficiency and agricul-
6 tural productivity for the benefit of a Rio Grande
7 Pueblo;

8 (2) to conserve water; or

9 (3) to otherwise enhance water management or
10 help avert water supply conflicts in the Rio Grande
11 Basin.

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

14 (1) the repair, rehabilitation, or reconstruction
15 of any major impoundment structure;

16 (2) any on-farm improvements; or

17 (3) the rehabilitation of any Pueblo irrigation
18 infrastructure for the purpose of irrigating Rio
19 Grande Pueblo land that has not been historically ir-
20 rigated.

21 (c) CONSULTATION.—In carrying out a project under
22 subsection (a), the Secretary shall—

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

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

3 (3) as appropriate, coordinate the project with
4 any work being conducted under the irrigation oper-
5 ations and maintenance program of the Bureau of
6 Indian Affairs.

7 (d) COST-SHARING REQUIREMENT.—

8 (1) FEDERAL SHARE.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (B), the Federal share of the
11 total cost of carrying out a project under sub-
12 section (a) shall be not more than 75 percent.

13 (B) EXCEPTION.—The Secretary may
14 waive or limit the non-Federal share required
15 under subparagraph (A) if the Secretary deter-
16 mines, based on a demonstration of financial
17 hardship by the Rio Grande Pueblo, that the
18 Rio Grande Pueblo is unable to contribute the
19 required non-Federal share.

20 (2) DISTRICT CONTRIBUTIONS.—

21 (A) IN GENERAL.—The Secretary may ac-
22 cept from the District a partial or total con-
23 tribution toward the non-Federal share required
24 for a project carried out under subsection (a)
25 on land located in any of the Six Middle Rio

1 Grande Pueblos if the Secretary determines
2 that the project is a special project.

3 (B) LIMITATION.—Nothing in subpara-
4 graph (A) requires the District to contribute to
5 the non-Federal share of the cost of a project
6 carried out under subsection (a).

7 (3) STATE CONTRIBUTIONS.—

8 (A) IN GENERAL.—The Secretary may ac-
9 cept from the State a partial or total contribu-
10 tion toward the non-Federal share for a project
11 carried out under subsection (a).

12 (B) LIMITATION.—Nothing in subpara-
13 graph (A) requires the State to contribute to
14 the non-Federal share of the cost of a project
15 carried out under subsection (a).

16 (4) FORM OF NON-FEDERAL SHARE.—The non-
17 Federal share under paragraph (1)(A) may be in the
18 form of in-kind contributions, including the contribu-
19 tion of any valuable asset or service that the Sec-
20 retary determines would substantially contribute to a
21 project carried out under subsection (a).

22 (e) OPERATION AND MAINTENANCE.—The Secretary
23 may not use any amount made available under section
24 8(b) for operation or maintenance of any project carried
25 out under subsection (a).

1 **SEC. 6. EFFECT ON EXISTING AUTHORITY AND RESPON-**
2 **SIBILITIES.**

3 Nothing in this Act—

4 (1) affects any existing project-specific funding
5 authority; or

6 (2) limits or absolves the United States from
7 any responsibility to any Rio Grande Pueblo (includ-
8 ing any responsibility arising from a trust relation-
9 ship or from any Federal law (including regula-
10 tions), Executive order, or agreement between the
11 Federal Government and any Rio Grande Pueblo).

12 **SEC. 7. EFFECT ON PUEBLO WATER RIGHTS OR STATE**
13 **WATER LAW.**

14 (a) PUEBLO WATER RIGHTS.—Nothing in this Act
15 (including the implementation of any project carried out
16 in accordance with this Act) affects the right of any Pueb-
17 lo to receive, divert, store, or claim a right to water, in-
18 cluding the priority of right and the quantity of water as-
19 sociated with the water right under Federal or State law.

20 (b) STATE WATER LAW.—Nothing in this Act pre-
21 empts or affects—

22 (1) State water law; or

23 (2) an interstate compact governing water.

24 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

25 (a) STUDY.—There is authorized to be appropriated
26 \$4,000,000 to carry out section 4.

1 (b) PROJECTS.—There is authorized to be appro-
2 priated \$6,000,000 for each of fiscal years 2010 through
3 2019 to carry out section 5.

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