

PUBLIC LAW 109-448—DEC. 22, 2006

UNITED STATES-MEXICO TRANSBOUNDARY
AQUIFER ASSESSMENT ACT

Public Law 109-448
109th Congress

An Act

Dec. 22, 2006
[S. 214]

To authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States-
Mexico
Transboundary
Aquifer
Assessment Act.
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SECTION 1. SHORT TITLE.

This Act may be cited as the “United States-Mexico Transboundary Aquifer Assessment Act”.

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to systematically assess priority transboundary aquifers.

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SEC. 3. DEFINITIONS.

In this Act:

(1) **AQUIFER.**—The term “aquifer” means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) **IBWC.**—The term “IBWC” means the International Boundary and Water Commission, an agency of the Department of State.

(3) **INDIAN TRIBE.**—The term “Indian tribe” means an Indian tribe, band, nation, or other organized group or community—

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) **PARTICIPATING STATE.**—The term “Participating State” means each of the States of Arizona, New Mexico, and Texas.

(5) **PRIORITY TRANSBOUNDARY AQUIFER.**—The term “priority transboundary aquifer” means a transboundary aquifer that has been designated for study and analysis under the program.

(6) **PROGRAM.**—The term “program” means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(7) **RESERVATION.**—The term “reservation” means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian

tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(8) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(9) TRANSBOUNDARY AQUIFER.—The term “transboundary aquifer” means an aquifer that underlies the boundary between a Participating State and Mexico.

(10) TRI-REGIONAL PLANNING GROUP.—The term “Tri-Regional Planning Group” means the binational planning group comprised of—

(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(11) WATER RESOURCES RESEARCH INSTITUTES.—The term “water resources research institutes” means the institutes within the Participating States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Participating States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, and the IBWC, as appropriate, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model priority transboundary aquifers along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) OBJECTIVES.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to identify and assess priority transboundary aquifers, including—

(A) for purposes of subsection (c)(2), specifying priority transboundary aquifers for further analysis by assessing—

(i) the proximity of a proposed priority transboundary aquifer to areas of high population density;

(ii) the extent to which a proposed priority transboundary aquifer would be used;

(iii) the susceptibility of a proposed priority transboundary aquifer to contamination; and

(iv) any other relevant criteria;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

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- (i) the additional data necessary to adequately define aquifer characteristics; and
- (ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;
- (2) consider the expansion or modification of existing agreements, as appropriate, between the United States Geological Survey, the Participating States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—
 - (A) conduct joint scientific investigations;
 - (B) archive and share relevant data; and
 - (C) carry out any other activities consistent with the program; and
- (3) produce scientific products for each priority transboundary aquifer that—
 - (A) are capable of being broadly distributed; and
 - (B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.
- (c) DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.—
 - (1) IN GENERAL.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—
 - (A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;
 - (B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and
 - (C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.
 - (2) ADDITIONAL AQUIFERS.—The Secretary may, using the criteria under subsection (b)(1)(A), evaluate and designate additional priority transboundary aquifers which underlie New Mexico or Texas.
- (d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of priority transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.
- (e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Participating State entities to carry out the program.

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SEC. 5. IMPLEMENTATION OF PROGRAM.

- (a) COORDINATION WITH STATES, TRIBES, AND OTHER ENTITIES.—The Secretary shall coordinate the activities carried out under the program with—
 - (1) the appropriate water resource agencies in the Participating States;
 - (2) any affected Indian tribes;
 - (3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer; and
 - (4) the IBWC, as appropriate.

(b) **NEW ACTIVITY.**—After the date of enactment of this Act, the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Participating State water resource agencies that have jurisdiction over the aquifer.

(c) **STUDY PLANS; COST ESTIMATES.**—

(1) **IN GENERAL.**—The Secretary shall work closely with appropriate Participating State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

(2) **REQUIREMENTS.**—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

(C) be consistent with appropriate State guidelines and goals.

SEC. 6. EFFECT.

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(a) **IN GENERAL.**—Nothing in this Act affects—

(1) the jurisdiction or responsibility of a Participating State with respect to managing surface or groundwater resources in the Participating State;

(2) the water rights of any person or entity using water from a transboundary aquifer; or

(3) State water law, or an interstate compact or international treaty governing water.

(b) **TREATY.**—Nothing in this Act shall delay or alter the implementation or operation of any works constructed, modified, acquired, or used within the territorial limits of the United States relating to the waters governed by the Treaty Between the United States and Mexico Regarding Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, Treaty Series 994 (59 Stat. 1219).

SEC. 7. REPORTS.

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Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2016, the Secretary shall submit to the appropriate water resource agency in the Participating States, an interim and final report, respectively, that describes—

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of priority transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

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(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this Act \$50,000,000 for the period of fiscal years 2007 through 2016.

(b) **DISTRIBUTION OF FUNDS.**—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Participating States (including Sandia

National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and to implement cooperative agreements entered into with appropriate entities in Mexico to conduct specific authorized activities in furtherance of the program, including the binational collection and exchange of scientific data.

(c) **CRITERIA.**—Funding provided to an appropriate entity in Mexico pursuant to subsection (b) shall be contingent on that entity providing 50 percent of the necessary resources (including in-kind services) to further assist in carrying out the authorized activity.

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SEC. 9. SUNSET OF AUTHORITY.

The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of enactment of this Act.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 214:

SENATE REPORTS: No. 109-17 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 151 (2005): July 26, considered and passed Senate.

Vol. 152 (2006): Dec. 6, considered and passed House, amended.

Dec. 8, Senate concurred in House amendment.

