

## **Appropriation language for FY 2005**

### **The Department of the Interior Bureau of Reclamation**

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

#### **Water and Related Resources (Including Transfer of Funds)**

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and other, [~~\$857,498,000~~] \$828,476,000, to remain available until expended, of which [~~\$51,330,000~~] \$53,299,000 shall be available for transfer to the Upper Colorado River Basin Fund and [~~\$33,570,000~~] \$33,794,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts may be necessary may be advanced to the Colorado River Dam Fund; of which such sums as are necessary to cover the operation and maintenance expenses (including small capital expenditures, allocated joint costs, and nonrecurring costs) allocated to the power functions of the Western Area Power Administration, and such sums as are necessary to cover the research and development expenses of the Science and Technology Program that support the power functions of the Bonneville Power Administration and the Western Area Power Administration, shall be derived from current fiscal year fees collected by the respective Power Administrations from the sale of power and related services, such amounts shall be credited to this account as offsetting collections: Provided, That fees collected in excess of such expenses shall continue to be credited to the Reclamation Fund: Provided further, That amounts appropriated herein from the general fund may be used to cover such expenses, to be reimbursed from fees subsequently collected by the respective Power Administrations during the current fiscal year; and of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: Provided further, That such transfers may be increased or decreased within the overall appropriation under this heading: Provided further, That of the total appropriated, the amount for program activities can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account: Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis [: Provided further, That \$1,000,000 is to be used for completion of the Santa Fe wells project in New Mexico through a cooperative agreement with the City of Santa Fe: Provided further, That \$10,000,000 of the funds appropriated herein shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of division B, title I of Public Law 106-554, as amended]:

Provided further, That section 301 of Public Law 102-250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting [“2003, and 2004”] “2004, and 2005” in lieu of [“and 2003 and 2004”. (Energy and Water Development Appropriations Act, 2004.)

### **[Bureau of Reclamation Loan Program Account]**

[For administrative expenses necessary to carry out the program for direct loans and/or grants, [\$200,000] \$0 to remain available until expended, of which the amount that can be financed by the Reclamation Fund shall be derived from that fund.] (Energy and Water Development Appropriations Act, 2004.)

### **Central Valley Project Restoration Fund**

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, [\$39,600,000], \$54,695,000 to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575: Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order. (Energy and Water Development Appropriations Act, 2004.)

### **CALIFORNIA BAY-DELTA RESTORATION (INCLUDING TRANSFER OF FUNDS)**

For carrying out authorized activities that are consistent with the CALFED Bay-Delta Program, including activities that would improve fish and wildlife habitat, water supply reliability, and water quality, consistent with plans to be approved by the Secretary of the Interior, \$15,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies carry out authorized purposes: Provided, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management.

### **Policy and Administration**

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, [\$55,525,000] \$58,153,000 to be derived from the Reclamation Fund and be non-reimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses. (Energy and Water Development Appropriations Act, 2004.)

## **[Working Capital Fund]**

[From unobligated balances under this heading, \$4,525,000 are rescinded.] (Energy and Water Development Appropriations Act, 2004.)

## **Administrative Provision**

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which [12]11 are for replacement only. (Energy and Water Appropriations Act, 2004.)

## **General Provisions Department of the Interior**

SEC. 201. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the 'Cleanup Program-Alternative Repayment Plan' and the "SJVDP-Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 199", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

SEC. 202. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

[SEC. 203. Subsection 206(b) of Public Law 101-514 is amended as follows: In paragraph (1), strike " , with annual quantities delivered under these contracts to be determined by the Secretary based upon the quantity of water actually needed within the Sacramento County Water Agency service area and San Juan Suburban Water District after considering reasonable efforts to: (i) promote full utilization of existing water entitlements within Sacramento County; (ii) implement water conservation and metering programs within the areas served by the contract; and (iii) implement programs to maximize to the extent feasible conjunctive use of surface water and groundwater".]

[SEC. 204. The Secretary of the Interior is authorized and directed to amend the Central Valley Project water supply contracts of the Sacramento County Water Agency and the San Juan Suburban Water District by deleting a provision requiring a determination of annual water needs included pursuant to section 206 of Public Law 101-514.]

[SEC. 205. LOWER COLORADO RIVER BASIN DEVELOPMENT. (a) IN GENERAL- Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the revised Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States District Court on April 24, 2003, in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB (EHC), No. CIV 95-1720-OHX-EHC (Consolidated Action)), and any amendment or revision thereof, is met.

(b) PAYMENT TO GENERAL FUND- If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 10 years after the date of enactment of this Act, payments to the general fund of the Treasury shall resume in accordance with section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

(c) AUTHORIZATION- Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.]

[SEC. 206. The second paragraph under the heading 'Administrative Provisions' in Public Law 102-377 (43 U.S.C. 377b) is amended by inserting ', not to exceed \$5,000,000 for each causal event giving rise to a claim or claims' after 'activities of the Bureau of Reclamation'.]

SEC. [207] 203. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: Provided, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

[SEC. 208. (a) Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds appropriated for the current fiscal year or any prior Energy and Water Development Appropriations Act, or funds otherwise made available to the Commissioner of the Bureau of Reclamation, and may not use discretion, if any, to restrict, reduce or reallocate any water stored in Heron Reservoir or delivered pursuant to San Juan-Chama Project contracts, including execution of said contracts facilitated by the Middle Rio Grande Project, to meet the requirements of the Endangered Species Act, unless such water is acquired or otherwise made available from a willing seller or lessor and the use is in

compliance with the laws of the State of New Mexico, including but not limited to, permitting requirements.

(b) Complying with the reasonable and prudent alternatives and the incidental take limits defined in the Biological Opinion released by the United States Fish and Wildlife Service dated March 17, 2003 combined with efforts carried out pursuant to Public Law 106-377, Public Law 107-66, and Public Law 108-7 fully meet all requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) for the conservation of the Rio Grande Silvery Minnow (*Hybognathus amarus*) and the Southwestern Willow Flycatcher (*Empidonax trailii extimus*) on the Middle Rio Grande in New Mexico.

(c) This section applies only to those Federal agency and non-Federal actions addressed in the March 17, 2003 Biological Opinion.

(d) Subsection (b) will remain in effect for 2 years following the implementation of this Act.]

[SEC. 209. ENDANGERED SPECIES COLLABORATIVE PROGRAM. (a) Using funds previously appropriated, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation and the Director of the Fish and Wildlife Service, for purposes of improving the efficiency and expediting the efforts of the Endangered Species Act Collaborative Program Workgroup, is directed to establish an executive committee of seven members consisting of—

- (1) one member from the Bureau of Reclamation;
- (2) one member from the Fish and Wildlife Service; and
- (3) one member at large representing each of the following seven entities (selected at the discretion of the entity in consultation with the Bureau of Reclamation and the Fish and Wildlife Service) currently participating as signatories to the existing Memorandum of Understanding:

- (A) other Federal agencies;
- (B) State agencies;
- (C) municipalities;
- (D) universities and environmental groups;
- (E) agricultural communities;
- (F) Middle Rio Grande Pueblos (Sandia, Isleta, San Felipe, Cochiti, Santa Ana, and Santo Domingo); and
- (G) Middle Rio Grande Conservancy District.

(b) Formation of this Committee shall not occur later than 45 days after enactment of this Act.

(c) Fiscal year 2004 appropriations shall not be obligated or expended prior to approval of a detailed spending plan by the House and Senate Committees on Appropriations.

(d) The above section shall come into effect within 180 days of enactment of this Act, unless the Bureau of Reclamation, in consultation with the above listed parties, has provided an alternative workgroup structure which has been approved by the House and Senate Committees on Appropriations.]

[SEC. 210. TULAROSA BASIN NATIONAL DESALINATION RESEARCH FACILITY. (a) DESALINATION DEMONSTRATION AND DEVELOPMENT- Pursuant to section 4(a) of Public Law 104-298; 110 Stat. 3622 (October 11, 1996), the Secretary may hereafter conduct or contract for the design, construction, testing and operation of the Tularosa Basin National Desalination Research Facility.

(b) The Tularosa Basin National Desalination Research Facility is hereafter exempt from all provisions of section 7 of Public Law 104-298; 110 Stat. 3622 (October 11, 1996). The Federal share of the cost of the Tularosa Basin National Desalination Research Facility may be up to 100 percent, including the cost of design, construction, operation, maintenance, repair and rehabilitation.]

[SEC. 211. The Secretary of the Interior, in carrying out CALFED-related activities, may undertake feasibility studies for Sites Reservoir, Los Vaqueros Reservoir Enlargement, and Upper San Joaquin Storage projects, hereafter. These storage studies should be pursued along with ongoing environmental and other projects in a balanced manner.]

[SEC. 212 The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the states identified in the Act of June 17, 1902, as amended, and supplemented:

Provided, That when such improvements are to Federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works:

Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies:

Provided further, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity:

Provided further, That this section shall not supercede any existing project-specific funding authority.

The Secretary is also authorized to enter into grants or cooperative agreements with universities or nonprofit research institutions to fund water use efficiency research.]

[SEC. 213. HAWAII WATER RESOURCES STUDY. The Hawaii Water Resources Act of 2000 (Public Law 106-566; 114 Stat. 2818) is amended--

(1) in section 103--

(A) in subsection (b)(1), by striking `Not' and all that follows through `the Secretary' and inserting `The Secretary' and

(B) in subsection (e), by striking `\$300,000' and all that follows and inserting `\$2,000,000 for the Federal share of the activities authorized under this section'; and

(2) in section 104(b), by striking `cost-effective,' and all that follows and inserting `cost-effective.'].]

SEC. [214] 204. Notwithstanding section 214 of the Energy and Water Development Act of 2004 (P.L. 108-137), all authorities and contributions authorized in section 214 and in section 402(b)(3)(B) of the Reclamation projects Authorization and Adjustment Act of 1992 (P.L. 102-575) previously assigned to the Secretary of Energy, Western Area Power Administration, are hereby transferred to the Secretary of the Interior [Notwithstanding the provisions of title IV of Public Law 102-575 (106 Stat. 4648), the contributions of the Western Area Power Administration to the Utah Reclamation Mitigation and Conservation Account shall expire 10 fiscal years from the date of enactment of this Act. Such contributions shall be from an account established by the Western Area Power Administration for this purpose and such contributions shall be made available to the Utah Reclamation Mitigation and Conservation Account subject to appropriations. After 10 fiscal years from the date of enactment of this Act, the Utah Reclamation Mitigation and Conservation Commission is hereby authorized to utilize interest earned and accrued to the Utah Reclamation Mitigation and Conservation Account.].]

[SEC. 215. TUALATIN RIVER BASIN, OREGON. (a) AUTHORIZATION TO CONDUCT FEASIBILITY STUDY- The Secretary of the Interior may conduct a Tualatin River Basin water supply feasibility study--

- (1) to identify ways to meet future water supply needs for agricultural, municipal, and industrial uses;
- (2) to identify water conservation and water storage measures;
- (3) to identify measures that would--
  - (A) improve water quality; and
  - (B) enable environmental and species protection; and
- (4) as appropriate, to evaluate integrated water resource management and supply needs in the Tualatin River Basin, Oregon.

(b) FEDERAL SHARE- The Federal share of the cost of the study conducted under subsection (a)--

- (1) shall not exceed 50 percent; and
- (2) shall be nonreimbursable and nonreturnable.

(c) ACTIVITIES- No activity carried out under this section shall be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

(d) FUNDING-

- (1) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section \$2,900,000, to remain available until expended.]

[SEC. [216] 206. FACILITATION OF INDIAN WATER RIGHTS IN ARIZONA. In order to facilitate Indian water rights settlements in the State of Arizona, the Secretary may:

(1) Extend, on an annual basis, the repayment schedule of debt incurred under section 9(d) of the Act of August 4, 1939 (43 U.S.C 485h(d)) by irrigation districts who have contracts for water delivery from the Central Arizona Project.

(2) If requested by either the Gila River Indian Community or the San Carlos Apache Tribe, utilize appropriated funds transferred into the Lower Colorado River Basin Development Fund for construction of Indian Distribution systems to assist in the partial funding of costs associated with the on-reservation delivery of CAP water to these Indian tribes [as set forth in the Bureau of Reclamation's FY 2004 Budget Justifications, PF-2B Schedules for construction of the Central Arizona Project.] These funds shall be non-reimbursable Operation and Maintenance funds and shall not exceed amounts projected for construction by these Indian tribes as set forth in the Bureau of Reclamation's PF-2B Schedules that support the FY 2004 Budget Justifications for the Central Arizona Project.]

[SEC. 217. RESTORATION OF FISH AND WILDLIFE HABITAT, PROVISION OF BOTTLED WATER FOR FALLON SCHOOLCHILDREN, AND ASSOCIATED PROVISIONS. (a) IN GENERAL- In carrying out section 2507 of Public Law 107-171, title II, subtitle F, the Secretary of Interior, acting through the Commissioner of Reclamation, shall--

(1) Notwithstanding section 2507 (b) of Public Law 107-171, title II, subtitle F, and in accordance with Public Law 101-618, provide \$2,500,000 to the State of Nevada to purchase water rights from willing sellers and make necessary improvements to benefit Carson Lake and Pasture: Provided, That such funds shall only be provided by the Bureau of Reclamation when the title to Carson Lake and Pasture is conveyed to the State of Nevada.

(2) As soon as practicable after enactment, provide \$133,000 to Families in Search of the Truth, Fallon, Nevada, for the purchase of bottled water and costs associated with providing such water to schoolchildren in Fallon-area schools.

(3) In consultation with the Pershing County Water Conservation District, the Commissioner shall expend \$270,000 for the State of Nevada's costs associated with the National Environmental Policy Act review of the Humboldt Title Transfer: Provided, That notwithstanding Public Law 107-282, section 804(d)-(f), the State of Nevada shall pay any other costs assigned to the State as an entity receiving title in Public Law 107-282, section 804(b)-(e) or due to any reconveyance under Public Law 107-282, section 804(f), including any such National Environmental Policy Act costs that exceed the \$270,000 expended by the Commissioner under this subparagraph.

(4) Provide \$1,000,000 to the University of Nevada, Reno's Biodiversity initiative for public education and associated technical assistance and outreach concerning the issues affecting the restoration of Walker Lake.

(b) ADMINISTRATION- The Secretary of the Interior, acting through the Commissioner of Reclamation, may provide financial assistance to State and local public agencies, Indian tribes, nonprofit organizations, and individuals to carry out this section and section 2507 of Public Law 107-171.]

[SEC. 218. The Secretary of the Interior shall extend the term of the Sacramento River Settlement Contracts, long- and short-form, entered into by the United States with various districts and individuals, section 14 of the Reclamation Project Act of 1939 (53 Stat. 1197), for a period of 2 additional years after the date on which each of the contracts, respectively, would expire but for this section, or until renewal contracts are executed, whichever occurs earlier.]

[SEC. 219. (a) Section 1(b) of Public Law 105-295 (112 Stat. 2820) is amended by striking the second sentence and inserting the following: 'The Federal share of the costs of constructing the temperature control device and associated temperature monitoring facilities shall be 50 percent and shall be nonreimbursable. The temperature control device and associated temperature monitoring facilities shall be operated by the non-Federal facility owner at its expense in coordination with the Central Valley Project for the benefit and propagation of Chinook salmon and steelhead trout in the American River, California.'

(b) Section 1(c) of Public Law 105-295 (112 Stat. 2820) is amended by striking '\$1,000,000' and inserting '\$3,500,000'.]

[SEC. 220. Not subject to fiscal year limitation, the Secretary of the Interior is hereafter authorized to implement, and enter into financial assistance or other agreements as may be necessary to undertake such activities identified for implementation (including construction) generally in accordance with section III of, and the Pumping/Dam Removal Plan as defined in, United States District Court Consent Decree 'United States, et al., v. Grants Pass Irrigation District, Civil No. 98-3034-HO' (August 27, 2001). There are authorized to be appropriated such sums as may be necessary to carry out this provision, and activities conducted under this provision shall be nonreimbursable and nonreturnable.]

[SEC. 221. EXTENSION OF CERTAIN IRRIGATION PROJECT CONTRACTS. Section 2 of the Irrigation Project Contract Extension Act of 1998 (112 Stat. 2816, 114 Stat. 1441, 1441A-70) is amended--

(1) in subsection (a), by striking 'December 31, 2003' and inserting 'December 31, 2005'; and

(2) in subsection (b)--

(A) in the first sentence, by striking 'beyond December 31, 2003' and inserting 'beyond December 31, 2005'; and

(B) in the second sentence, by striking 'prior to December 31, 2003' and inserting 'before December 31, 2005'.]