

Appropriation Language for FY 2006

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 others, [**\$859,481,000**] \$781,569,000 to remain available until expended, of which [**\$53,299,000**] \$55,544,000 shall be available for transfer to the Upper Colorado River Basin Fund and [**\$33,794,000**] \$21,998,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; 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*, 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. 4601-6a(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 \$250,000 is provided under the Weber Basin project for the Park City, Utah feasibility study:**] *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.

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 (CVPIA), [**\$54,695,000**], \$52,219,000 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.

CALIFORNIA BAY-DELTA-CALFED IMPLEMENTATION
(INCLUDING TRANSFER OF FUNDS)

For carrying out authorized activities that are consistent with Public Law 108-361, Calfed Bay Delta Authorization Act, including activities that would improve fish and wildlife habitat, water supply and reliability, and water quality, consistent with plans to be approved by the Secretary of the Interior, \$35,000,000, 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 to carry out authorized purposes: Provided, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management; and Provided further, That expenditure of any funds provided to the California Bay-Delta Authority for program wide management and oversight activities shall be subject to the approval of the Secretary of the Interior; and Provided further, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

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, [**\$58,153,000**], \$57,917,000 to be derived from the Reclamation Fund and be nonreimbursable 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.

Administrative Provision

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 11 are for replacement only.

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 1995", 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. 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. 204. 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. 205. (a) Notwithstanding any other provision of law and hereafter, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds, 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 until March 16, 2013.]

SEC. [206]202. 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 *and states* 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 supersede any existing project-specific funding authority: Provided further, That 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. 207. ANIMAS-LA- PLATA NON-INDIAN SPONSOR OBLIGATIONS. In accordance with the nontribal repayment obligation specified in Subsection 6(a)(3)(B) of the Colorado Ute Indian Rights Settlement Act of 1988 (Public Law 100-585), as amended by the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106-554), the reimbursable cost upon which the cost allocation shall be

based shall not exceed \$43,000,000, plus interest during construction for those parties not utilizing the up front payment option, of the first \$500,000,000 (January 2003 price level) of the total project costs. Consequently, the Secretary may forgive the obligation of the non-Indian sponsors relative to the \$163,000,000 increase in estimated total project costs that occurred in 2003.]

[SEC. 208. MONTANA WATER CONTRACTS EXTENSION. (a) AUTHORITY TO EXTEND. – The Secretary of the Interior may extend each of the water contracts listed in subsection (b) until the earlier of –

- (1) the expiration of the 2-year period beginning on the date on which the contract would expire but for this section; or**
- (2) the date on which a new long-term water contract is executed by the parties to the contract listed in subsection (b).**

(b) EXTENDED CONTRACTS. – The water contracts referred to in subsection (a) are the following:

- (1) Contract Number 14-06-600-2078, as amended, for purchase of water between the United States of America and the City of Helena, Montana.**
- (2) Contract Number 14-06-600-2079, as amended, between the United States of America and the Helena Valley Irrigation District for water service.**
- (3) Contract Number 14-06-600-8734, as amended, between the United States of America and the Toston Irrigation District for water service.**
- (4) Contract Number 14-06-600-3592, as amended, between the United States and the Clark Canyon Water Supply Company, Inc., for water service and for a supplemental supply.**
- (5) Contract Number 14-06-600-3593, as amended, between the United States and the East Bench Irrigation District for water service.]**

SEC. 203. (a) Notwithstanding section 3302 of title 31, United States Code, or any other law, and without further appropriation or fiscal year limitation, for fiscal year 2006 and each fiscal year thereafter, The Administrator of the Western Area Power Administration (WAPA) shall credit to the Commissioner of Reclamation (referred to in this section as the “Commissioner”) receipts, in amounts determined under subsection (b), from the sale of power and related services. A new receipt account in the U.S. Treasury titled “Receipts for Reclamation Hydropower O&M” shall be established, into which receipts credited to Reclamation pursuant to this subsection shall be deposited. Funds in this receipt account shall be available to the Commissioner, who shall accept and use them to fund only those Reclamation operation and maintenance activities (including small capital expenditures) that are allocated to the power function (including joint O&M expenditures allocated to the power function) and assigned to be recovered by WAPA for repayment through its rates for each respective project system within WAPA. The Commissioner shall not use these receipts to fund any other activities.

(c) Funds in the “Receipts for Reclamation Hydropower O&M” account shall be available for expenditure for the purpose for which contributed in like manner as if said funds had been specifically appropriated for said purposes.

(d) The amount of receipts credited under subsection (a) shall be equal to such amounts as the Commissioner requests, and the Commissioner and WAPA Administrator, in consultation with WAPA and Reclamation power customers ultimately determine to be appropriate, necessary, or practicable to apply to the activities referred to in subsection (a).

(e) If requested by the WAPA Administrator, the Secretary of the Treasury shall transfer to the “Receipts for Reclamation Hydropower O&M” account any receipts from the sale of power and related services deposited by the Administrator into the General Fund or Reclamation Fund in the Treasury during the 90 days prior to the date of enactment of this Act.

(f) Nothing in this Section shall be construed as affecting or intending to affect any provisions of the Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), the Colorado River Basin Project Act (82 Stat. 885), the Colorado River Storage Project Act (70 Stat. 105), the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 618a), or Section 2406 of the Energy Policy Act of 1992 (106 Stat. 2776).

Appropriation Language for FY 2006

The Department of the Interior Bureau of Reclamation

EXPLANATION OF CHANGES IN APPROPRIATION LANGUAGE FISCAL YEAR 2006

WATER AND RELATED RESOURCES

Delete the following provisos:

[Provided Further, That \$250,000 is provided under the Weber Basin project for the Park City, Utah feasibility study:]

The above provision provided under the Weber Basin Project for the Park City, Utah feasibility study is a one year provision and expired at the end of FY 2004, and it is not necessary to extend it further.

Add the following provisos:

Provided further, That notwithstanding the provisions of the Reclamation Act of June 17, 1902, as amended, and 31 U.S.C. 3302, for fiscal year 2006 and each year thereafter, amounts sufficient to cover each year's total operation and maintenance expenses allocated by the Bureau of Reclamation to the power functions of the Western Area Power Administration (WAPA), including small capital expenditures, other nonrecurring costs, and allocated joint costs, 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 WAPA, shall, during such year, be collected by WAPA and credited to this account as offsetting collections: Provided further, That amounts so credited in the current fiscal year are to remain available until expended: Provided further, That the sum herein appropriated from the Reclamation Fund and the general fund shall be reduced as collections are received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation for these activities from these funds estimated at not more than \$771,569,000. (Energy and Water Development Appropriations Act, 2005.)

The above provision reclassifies receipts collected by the Western Areas Power Administration, and makes available to the Bureau of Reclamation a portion of those receipts to cover the research and development expenses of the Science and Technology Program, from which hydropower customers benefit, as offsetting collections.

CALIFORNIA BAY-DELTA RESTORATION

Add the following provisos:

CALIFORNIA BAY-DELTA RESTORATION

For carrying out activities authorized by the Calfed Bay Delta Authorization Act, consistent with plans to be approved by the Secretary of the Interior, \$35,000,000, 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 to carry out authorized purposes: Provided, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: Provided further, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: Provided further, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program. (P.L. 108-361.)

The above provision was added to accommodate the request for funding for the California Bay Delta Program Authorized by Public Law 108-361.

GENERAL PROVISIONS DEPARTMENT OF THE INTERIOR

Delete the following provisos:

[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.]

The above provision unduly restricts the ability of Reclamation to utilize funds provided for the Middle Rio Grande and Carlsbad Projects.

Delete the following provisos:

**[SEC. 203. 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.]

The above provision is deleted because the language was continued in section 205 of Public Law 108-137 (Enacted December 1, 2003). This provision of law applies for “10 years” or until 2013.

Delete the following provisos:

[SEC. 204. 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.]

The above provision unduly restricts and ability of Reclamation to utilize funds provided for Drought Emergency Assistance.

Delete the following provisos:

[SEC. 205. (a) Notwithstanding any other provision of law and hereafter, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds, 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 until March 16, 2013.]

The above provision is deleted because the language therein makes it permanent.

[SEC. 206 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 and States 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-Federally entity: Provided further, That this section shall not supersede any existing project-specific funding authority: Provided further, That the Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.]

The above provision is considered a “One Year” Provision and does not need to be repeated.

Delete the following provisos:

[SEC. 207. ANIMAS-LA- PLATA NON-INDIAN SPONSOR OBLIGATIONS. In accordance with the nontribal repayment obligation specified in Subsection 6(a)(3)(B) of the Colorado Ute Indian Rights Settlement Act of 1988 (Public Law 100-585), as amended by the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106-554), the reimbursable cost upon which the cost allocation shall be based shall not exceed \$43,000,000, plus interest during construction for those parties not utilizing the up front payment option, of the first \$500,000,000 (January 2003 price level) of the total project costs. Consequently, the Secretary may forgive the obligation of the non-Indian sponsors relative to the \$163,000,000 increase in estimated total project costs that occurred in 2003.]

The above Provision for Animas-La Plata Non-Indian Sponsor Obligations is being deleted because it is considered a Permanent Provision.

[SEC. 208. MONTANA WATER CONTRACTS EXTENSION. (a) AUTHORITY TO EXTEND. – The Secretary of the Interior may extend each of the water contracts listed in subsection (b) until the earlier of –

- (1) the expiration of the 2-year period beginning on the date on which the contract would expire but for this section; or**
- (2) the date on which a new long-term water contract is executed by the parties to the contract listed in subsection (b).**

(b) EXTENDED CONTRACTS. – The water contracts referred to in subsection (a) are the following:

- (1) Contract Number 14-06-600-2078, as amended, for purchase of water between the United States of America and the City of Helena, Montana.**
- (2) Contract Number 14-06-600-2079, as amended, between the United States of America and the Helena Valley Irrigation District for water service.**
- (3) Contract Number 14-06-600-8734, as amended, between the United States of America and the Toston Irrigation District for water service.**
- (4) Contract Number 14-06-600-3592, as amended, between the United States and the Clark Canyon Water Supply Company, Inc., for water service and for a supplemental supply.**
- (5) Contract Number 14-06-600-3593, as amended, between the United States and the East Bench Irrigation District for water service.]**

The above provision is considered a “One Year” Provision and does not need to be repeated.