

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5768

To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to provide standards and procedures for the review of water reclamation and reuse projects.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2006

Mrs. NAPOLITANO introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to provide standards and procedures for the review of water reclamation and reuse projects.

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. SHORT TITLE.**

4       This Act may be cited as the “Reclaiming the Na-  
5       tion’s Water Act”.

1 **SEC. 2. PURPOSE; DEFINITIONS.**

2 The Reclamation Wastewater and Groundwater  
3 Study and Facilities Act (43 U.S.C. 390h et seq.) is  
4 amended—

5 (1) by striking section 1603;

6 (2) by redesignating section 1602 as section  
7 1603; and

8 (3) by inserting after section 1601 the fol-  
9 lowing:

10 **“SEC. 1602. PURPOSES; DEFINITIONS.**

11 “(a) PURPOSES.—The purposes of this title are—

12 “(1) to assist in the development of permanent  
13 local and regional water reclamation and reuse  
14 projects in—

15 “(A) the States and areas referred to in  
16 the first section of the Act of June 17, 1902  
17 (43 U.S.C. 391); and

18 “(B) the State of Hawaii; and

19 “(2) to further improvements in water reclama-  
20 tion and reuse technologies through the conduct of—

21 “(A) research; and

22 “(B) demonstration activities in the States  
23 and areas described in subparagraphs (A) and  
24 (B) of paragraph (1).

25 “(b) DEFINITIONS.—In this title:

1           “(1) FINANCIALLY CAPABLE PROJECT SPON-  
2           SOR.—The term ‘financially capable project sponsor’  
3           means a non-Federal project sponsor that is capable  
4           of providing—

5                   “(A) the non-Federal share of the project  
6                   costs; and

7                   “(B) 100 percent of the operations and  
8                   maintenance costs of the project.

9           “(2) NON-FEDERAL PROJECT SPONSOR.—The  
10           term ‘non-Federal project sponsor’ means a State,  
11           regional, or local authority or other qualifying entity,  
12           such as a water conservation district, water conser-  
13           vancy district, or rural water district or association.

14           “(3) FEDERAL RECLAMATION LAWS.—The term  
15           ‘Federal reclamation laws’ means the Act of June  
16           17, 1902 (32 Stat. 388, chapter 1093), and Acts  
17           supplemental to and amendatory of that Act (43  
18           U.S.C. 371 et seq.).

19           “(4) RECLAIM; RECLAMATION.—The terms ‘re-  
20           claim’ and ‘reclamation’ include recycling and desali-  
21           nation.

22           “(5) SECRETARY.—The term ‘Secretary’ means  
23           the Secretary of the Interior.

1           “(6) **TECHNICALLY AND FINANCIALLY VIABLE**  
2           **PROJECT.**—The term ‘technically and financially via-  
3           ble project’ means a project that—

4                   “(A) is a technically viable project; and

5                   “(B) has a financially capable project  
6           sponsor.

7           “(7) **TECHNICALLY VIABLE PROJECT.**—The  
8           term ‘technically viable project’ means a project  
9           that—

10                   “(A) meets generally acceptable engineer-  
11           ing, public health, and environmental stand-  
12           ards; and

13                   “(B) has obtained or is expected to obtain  
14           approval of all Federal, State, and local permits  
15           necessary for implementation of the project.”.

16 **SEC. 3. GENERAL AUTHORITY.**

17           Section 1603(a) of the Reclamation Wastewater and  
18           Groundwater Study and Facilities Act (as redesignated by  
19           section 2(2)), is amended—

20                   (1) by striking “The Secretary of the Interior”  
21           and all that follows through “is directed to” and in-  
22           serting “The Secretary, acting pursuant to Federal  
23           reclamation laws, shall”;

24                   (2) by striking “investigate and identify” and  
25           inserting “participate in”; and

1           (3) by striking “to conduct research, including  
2           desalting” and inserting “conduct research, includ-  
3           ing desalination”.

4 **SEC. 4. REVIEW OF PROPOSALS SUBMITTED BY NON-FED-**  
5 **ERAL PROJECT SPONSORS.**

6           The Reclamation Wastewater and Groundwater  
7 Study and Facilities Act (43 U.S.C. 390h et seq.) is  
8 amended by striking section 1604 and inserting the fol-  
9 lowing:

10 **“SEC. 1604. REVIEW OF PROPOSALS SUBMITTED BY NON-**  
11 **FEDERAL PROJECT SPONSORS.**

12           “(a) **AUTHORITY TO REVIEW.**—The Secretary shall  
13 review any project proposal under this title that is—

14           “(1) developed by a non-Federal project spon-  
15 sor—

16                   “(A) independently; or

17                   “(B) with the assistance of the Depart-  
18 ment of the Interior or any other governmental  
19 or nongovernmental entity; and

20           “(2) submitted or resubmitted to the Secretary  
21 by a non-Federal project sponsor, including a project  
22 proposal that has been previously reviewed for feasi-  
23 bility by the Secretary.

24           “(b) **REQUIREMENTS.**—In addition to complying with  
25 any requirements of other Federal laws, a project proposal

1 submitted by a non-Federal project sponsor under this  
2 section shall—

3 “(1) provide sufficient evidence, as determined  
4 by the Secretary, to demonstrate that the project—

5 “(A) is a technically viable project; and

6 “(B) has a financially capable project  
7 sponsor; and

8 “(2) provide information on each of the factors  
9 described in subsection (d)(1)(B)(ii).

10 “(c) DETERMINATION OF FINANCIAL AND TECH-  
11 NICAL VIABILITY.—

12 “(1) IN GENERAL.—Not later than 30 days  
13 after the date on which a non-Federal project spon-  
14 sor submits a project proposal (including any sup-  
15 porting documentation) under subsection (a)(2), the  
16 Secretary shall provide to the non-Federal project  
17 sponsor written notice on whether the project pro-  
18 posal includes sufficient information under para-  
19 graph (2) for the Secretary to determine whether the  
20 proposed project is a technically and financially via-  
21 ble project.

22 “(2) CHECKLIST.—A project proposal shall in-  
23 clude sufficient information for a determination  
24 under paragraph (1) if the proposal includes—

1           “(A) a map of the proposed project area  
2           and service area;

3           “(B) a project description or plan, includ-  
4           ing engineering plans;

5           “(C) the initial cost estimates for the  
6           project;

7           “(D) a financial plan for the project; and

8           “(E) a report on the status of any Federal,  
9           State, and local permits that are necessary to  
10          implement the project.

11          “(3) DETERMINATION OF INSUFFICIENT INFOR-  
12          MATION.—

13                 “(A) IN GENERAL.—If the Secretary deter-  
14                 mines that there is insufficient information in  
15                 the project proposal for the Secretary to deter-  
16                 mine whether the project is a technically and fi-  
17                 nancially viable project—

18                         “(i) the Secretary shall provide to the  
19                         non-Federal project sponsor written notice  
20                         that identifies any information that the  
21                         Secretary determines to be necessary to  
22                         make the determination; and

23                         “(ii) the non-Federal project entity  
24                         may submit a revised project proposal to  
25                         the Secretary.

1           “(B) NOTIFICATION.—Not later than 21  
2           days after the date on which a non-Federal  
3           project sponsor submits a revised proposal to  
4           the Secretary under subparagraph (A)(ii), the  
5           Secretary shall provide to the non-Federal  
6           project sponsor written notice that describes  
7           whether sufficient information has been pro-  
8           vided to make a determination on whether the  
9           project is a technically and financially viable  
10          project.

11         “(d) NOTICE TO CONGRESS.—

12           “(1) IN GENERAL.—Not later than 180 days  
13          after the date on which the Secretary determines  
14          that a project proposal includes sufficient informa-  
15          tion to make a determination on whether the project  
16          is a technically and financially viable project, the  
17          Secretary shall submit to Congress a written notice  
18          of the findings of the Secretary that includes—

19                 “(A) a statement and explanation of the  
20                 determination on whether the project is a tech-  
21                 nically and financially viable project; and

22                 “(B) a concise recommendation of the Sec-  
23                 retary on whether the project should be author-  
24                 ized for construction, that is based on, but is  
25                 not required to describe—



1 “(i) the results of the review of the  
2 project proposal under subsection (a); and

3 “(ii) the consideration of the following  
4 factors:

5 “(I) The cost per acre-foot of  
6 water to be produced by the project.

7 “(II) The quality and quantity of  
8 water to be produced by the project.

9 “(III) The cost-effectiveness of  
10 the project compared with other avail-  
11 able alternatives, including whether  
12 other comparatively cost-effective al-  
13 ternatives for meeting a significant  
14 water supply need for the project  
15 exist.

16 “(IV) Any environmental benefits  
17 or adverse effects of the project.

18 “(V) The extent to which the  
19 project would help serve an identified  
20 Federal interest.

21 “(VI) The extent to which the  
22 project would provide regional bene-  
23 fits.

24 “(VII) Whether the project dem-  
25 onstrates innovative or alternative

1 technologies or processes relating to  
2 water treatment or waste minimiza-  
3 tion and management.

4 “(2) AVAILABILITY.—To ensure that the deter-  
5 mination and recommendation submitted under  
6 paragraph (1) are made publicly available, the Sec-  
7 retary shall—

8 “(A) transmit a copy of the written notice  
9 under paragraph (1) to—

10 “(i) the Committee on Energy and  
11 Natural Resources of the Senate; and

12 “(ii) the Committee on Resources of  
13 the House of Representatives; and

14 “(B) publish in the Federal Register notice  
15 of the availability of the written notice.

16 “(e) REVISIONS TO PROPOSAL.—

17 “(1) IN GENERAL.—If the Secretary determines  
18 under subsection (d)(1)(A) that a project is not a  
19 technically and financially viable project, the Sec-  
20 retary shall not be required to conduct further anal-  
21 ysis of the project until the non-Federal project  
22 sponsor—

23 “(A) conducts an additional investigation  
24 of the project; and

1           “(B) resubmits a revised project proposal  
2           in accordance with this section.

3           “(2) COSTS.—The non-Federal project sponsor  
4           shall pay any costs associated with revising the  
5           project proposal under paragraph (1).

6           “(f) CONGRESSIONAL DETERMINATION AND AU-  
7 THORIZATION.—

8           “(1) CONGRESSIONAL DETERMINATION.—Con-  
9           gress may make the determination on whether to au-  
10          thorize a project under this title if—

11                  “(A) the Secretary submits the written no-  
12                  tice under subsection (d)(1);

13                  “(B) by the date that is 60 days after the  
14                  date on which a non-Federal project sponsor  
15                  submits a project proposal under subsection  
16                  (a)(2), the Secretary does not submit written  
17                  notice to the non-Federal project sponsor under  
18                  subsection (c)(1); or

19                  “(C) by the date that is 180 days after the  
20                  date on which the Secretary determines that a  
21                  project proposal includes sufficient information  
22                  to make a determination on whether the project  
23                  is a technically and financially viable project,  
24                  the Secretary does not submit the written no-  
25                  tice under subsection (d)(1).

1           “(2) CONGRESSIONAL AUTHORIZATION.—Noth-  
2           ing in this section precludes Congress from author-  
3           izing a project under this title.

4           “(g) TRANSITION PROVISIONS.—

5           “(1) IN GENERAL.—A non-Federal project  
6           sponsor that has submitted to the Secretary for re-  
7           view a feasibility study for a project under this title  
8           before the date of enactment of the Reclaiming the  
9           Nation’s Water Act may—

10                   “(A) submit a new project proposal for ap-  
11                   proval under subsection (a); or

12                   “(B) notify the Secretary in writing that  
13                   the non-Federal project sponsor elects to seek  
14                   approval of the project using the previously sub-  
15                   mitted feasibility study.

16           “(2) SUPPLEMENTAL INFORMATION.—If the  
17           non-Federal project sponsor makes the election  
18           under paragraph (1)(B), the non-Federal project  
19           sponsor may supplement the previously submitted  
20           feasibility study to provide additional information—

21                   “(A) on whether the project is a technically  
22                   and financially viable project; and

23                   “(B) to address each of the factors de-  
24                   scribed in subsection (d)(1)(B)(ii).

1           “(3) DETERMINATION OF TECHNICAL AND FI-  
2           NANCIAL VIABILITY.—Not later than 90 days after  
3           the date on which the Secretary receives notice of an  
4           election under paragraph (1)(B), the Secretary shall  
5           determine whether the project is a technically and fi-  
6           nancially viable project.

7           “(4) NOTICE TO CONGRESS.—Not later than  
8           180 days after the date on which the Secretary re-  
9           ceives notice of an election under paragraph (1)(B),  
10          the Secretary shall submit to Congress written no-  
11          tice on the determination and recommendation of  
12          the Secretary with respect to the proposal in accord-  
13          ance with subsection (d).”.

14 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

15          Section 1631 of the Reclamation Wastewater and  
16          Groundwater Study and Facilities Act (43 U.S.C. 390h-  
17          13) is amended—

18                 (1) in subsection (b)(1)—

19                         (A) by striking “may not be appropriated”  
20                         and inserting “may not be expended by the Sec-  
21                         retary”; and

22                         (B) by striking subparagraphs (A) and (B)  
23                         and inserting the following:

24                                 “(A) Congress has authorized the con-  
25                                 struction of the project;

1           “(B) the Secretary has determined that  
2           the project has a financially capable project  
3           sponsor; and”;

4           (2) in subsection (c), by striking “the non-Fed-  
5           eral project sponsor” and all that follows through  
6           “project’s costs” and inserting “the project has a fi-  
7           nancially capable project sponsor”; and

8           (3) by adding at the end the following:

9           “(e) LIMITATION ON NEW PROJECTS.—

10           “(1) IN GENERAL.—The Federal share of the  
11           total costs of any project authorized under this title  
12           after the date of enactment of the Reclaiming the  
13           Nation’s Water Act shall be not more than 20 per-  
14           cent.

15           “(2) OPERATION AND MAINTENANCE COSTS.—

16           No Federal funds shall be used to pay the costs of  
17           operating and maintaining any project authorized  
18           under this title after the date of enactment of the  
19           Reclaiming the Nation’s Water Act.

20           “(f) DEAUTHORIZATION.—Any project authorized  
21           under this title that has not received Federal funding by  
22           the date that is the later of the date that is 10 years after  
23           the date of enactment of the Reclaiming the Nation’s  
24           Water Act or 10 years after the date on which construc-  
25           tion of the project is authorized shall be deauthorized.”.

1 **SEC. 6. REUSE PLANNING ASSISTANCE PROGRAM.**

2 The Reclamation Wastewater and Groundwater  
3 Study and Facilities Act (43 U.S.C. 390h et seq.) is  
4 amended by adding at the end the following:

5 **“SEC. 1639. REUSE PLANNING ASSISTANCE PROGRAM.**

6 “(a) IN GENERAL.—The Secretary may cooperate  
7 with any non-Federal project sponsor in the preparation  
8 of any plan (including a project proposal) for the develop-  
9 ment of reclaimed water for reuse applications or environ-  
10 mental benefits that are in the public interest, as deter-  
11 mined by the Secretary.

12 “(b) AGREEMENT.—

13 “(1) IN GENERAL.—At the request of a non-  
14 Federal project sponsor, the Secretary may enter  
15 into an agreement with the non-Federal project  
16 sponsor to provide for the preparation of a project  
17 proposal for review under section 1604(a).

18 “(2) REQUIREMENTS.—Any project proposal  
19 prepared under an agreement entered into under  
20 paragraph (1) shall comply with the National Envi-  
21 ronmental Policy Act of 1969 (42 U.S.C. 4321 et  
22 seq.), including any regulations promulgated to carry  
23 out that Act.

24 “(3) CONSULTATION.—The Secretary shall con-  
25 sult and cooperate with appropriate Federal, State,  
26 regional, and local entities during the development of

1 each project proposal prepared under an agreement  
2 entered into under paragraph (1).

3 “(c) AUTHORIZATION OF APPROPRIATIONS.—

4 “(1) IN GENERAL.—There is authorized to be  
5 appropriated to carry out this section not more than  
6 \$4,400,000 for fiscal year 2007 and each fiscal year  
7 thereafter, of which—

8 “(A) not more than \$500,000 shall be ex-  
9 pended in any 1 fiscal year for a plan for any  
10 1 project; and

11 “(B) not more than a total of \$1,000,000  
12 shall be made available to a non-Federal project  
13 sponsor to prepare a plan for any 1 project.

14 “(2) FEDERAL SHARE.—The Federal share of  
15 the total costs of any plan for a project prepared  
16 under an agreement entered into under subsection  
17 (b)(1) shall be not more than 50 percent.”.

18 **SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.**

19 (a) TECHNICAL AMENDMENTS.—The Reclamation  
20 Wastewater and Groundwater Study and Facilities Act  
21 (43 U.S.C. 390h et seq.) is amended—

22 (1) in section 1612(a) (43 U.S.C. 390h–10(a)),  
23 by striking “California or” and inserting “Calif-  
24 ornia, or”; and



1           (2) in section 1632(a) (43 U.S.C. 390h–  
2           14(a))—

3                   (A) by striking “Secretary of the Interior”  
4                   and inserting “Secretary”; and

5                   (B) in paragraph (2), by striking the  
6                   comma and inserting a semicolon.

7           (b) CONFORMING AMENDMENTS.—The table of sec-  
8           tions in section 2 of the Reclamation Projects Authoriza-  
9           tion and Adjustment Act of 1992 (43 U.S.C. prec. 371)  
10          is amended—

11                   (1) by striking the items relating to sections  
12                   1602 through 1604 and inserting the following:

“Sec. 1602. Purposes; Definitions.

“Sec. 1603. General authority.

“Sec. 1604. Review of proposals submitted by non-Federal project sponsors.”;

13          and

14                   (2) by inserting after the item relating to sec-  
15                   tion 1638 the following:

“Sec. 1639. Reuse planning assistance program.”.

○