

AUTHORIZATION OF MOKELUMNE RIVER REGIONAL  
WATER STORAGE AND CONJUNCTIVE USE PROJECT  
STUDY

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SEPTEMBER 7, 2004.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. POMBO, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 4045]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4045) to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. AUTHORIZATION OF MOKELUMNE RIVER REGIONAL WATER STORAGE AND CONJUNCTIVE USE PROJECT STUDY.**

Pursuant to the Reclamation Act of 1902 (32 Stat. 388) and Acts amendatory thereof and supplemental thereto, the Secretary of the Interior (hereafter in this Act referred to as the “Secretary”) is authorized to prepare a feasibility study entitled the “Mokelumne River Regional Water Storage and Conjunctive Use Project Study” for a project to provide additional water supply and improve water management flexibility through the development of new water storage and conjunctive use programs.

**SEC. 2. USE OF REPORTS AND OTHER INFORMATION.**

In developing the Mokelumne River Regional Water Storage and Conjunctive Use Project Study, the Secretary shall use, as appropriate, reports and any other relevant information supplied by the Mokelumne River Water and Power Authority, the East Bay Municipal Utility District and other stakeholders.

**SEC. 3. DEADLINE.**

The Secretary shall complete the Mokelumne River Regional Water Storage and Conjunctive Use Project Study and provide copies of that study to the Committee on Resources of the House of Representatives and the Committee on Energy and

Natural Resources of the Senate not later than 2 years after the date of the enactment of this Act.

**SEC. 4. COST SHARES.**

(a) **FEDERAL SHARE.**—The Federal share of the costs of the Mokelumne River Regional Water Storage and Conjunctive Use Project Study shall not exceed 50 percent of the total cost of the study.

(b) **IN-KIND CONTRIBUTIONS.**—The Secretary shall accept, as appropriate, such in-kind contributions of goods or services from the Mokelumne River Water and Power Authority as the Secretary determines will contribute to the conduct and completion of the Mokelumne River Regional Water Storage and Conjunctive Use Project Study. Goods and services accepted under this section shall be counted as part of the non-federal cost share for that study.

**SEC. 5. WATER RIGHTS.**

Nothing in this Act shall be construed to invalidate, preempt, or create any exception to State water law, State water rights, or Federal or State permitted activities or agreements.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Secretary \$3,000,000 for the Federal cost share of the Mokelumne River Regional Water Storage and Conjunctive Use Project Study.

**PURPOSE OF THE BILL**

The purpose of H.R. 4045 is to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River.

**BACKGROUND AND NEED FOR LEGISLATION**

In San Joaquin County, California, the ability to meet the water demands of a rapidly growing population is complicated by a highly significant groundwater overdraft and associated saline intrusion from the San Francisco Bay-Sacramento-San Joaquin Delta. These water supply issues have prompted local governments and water agencies to seek a more dependable and reliable water supply for the region. As a result, many have looked to capture flood flows on the Mokelumne River as a primary method to provide added water supply.

Known as the “Mokelumne River Regional Water Storage and Conjunctive Use Project,” this effort examines the possibility of capturing Mokelumne flood flows to develop off-stream storage and conjunctive use programs in San Joaquin County. Benefits could include up to 90,000 acre feet of added yield as a result of a combination of capturing flood flows and developing conjunctive use programs, according to the Project’s supporters. Currently, the Project is in the planning stages at the local level.

H.R. 4045 authorizes federal assistance in this planning effort. As ordered reported, the bill authorizes the Secretary of the Interior to prepare a feasibility study to determine how and if the federal government could help provide additional water supply through the Project. Using directives and standards under longstanding Bureau of Reclamation guidelines, the feasibility study process will examine such items as current problems, needs and potential impacts, evaluation of resource capabilities, formulation of alternative plans, analysis and comparison of alternatives, plan selection and the identification of present and future conditions, including State-adjudicated water rights, and federal or State permitted activities or agreements. During a hearing on the bill, the Committee strongly emphasized that existing water and property

rights associated with the East Bay Municipal Utility District and other stakeholders on the Mokelumne River be protected throughout this process. During Subcommittee and Committee markups, language was added to the bill to reinforce these protections. As such, the Committee expects the Secretary to protect these rights by working cooperatively with those stakeholders.

The bill also directs the Secretary to deliver the feasibility study to Congress no later than two years after enactment. The bill, as ordered reported, directs the Secretary to accept reports and other relevant information, as appropriate, from the Mokelumne River Water and Power Authority, the East Bay Municipal Utility District, and other stakeholders to prepare the feasibility study. In conducting the feasibility study, the Secretary may also accept, as appropriate, in-kind contributions of goods and services from the Authority and count such contributions as part of the non-federal cost share of the study. Since the Authority's extensive local planning and significant expenditures have already been conducted at the pre-feasibility study level, the Committee expects that the Secretary will utilize this knowledge and provide reimbursement funding, when necessary and appropriate. The federal government would assume a 50% maximum cost share for the feasibility study, with \$3 million authorized to be appropriated in the bill for this purpose.

#### COMMITTEE ACTION

House Resources Committee Chairman Richard Pombo (R-CA) introduced H.R. 4045 on March 25, 2004. The bill was referred to the Committee on Resources and within the Committee to the Subcommittee on Water and Power. On May 18, 2004, the Subcommittee held a hearing on the bill. On June 16, 2004, the Subcommittee met to mark up the bill. Subcommittee Chairman Ken Calvert (R-CA) offered an amendment in the nature of a substitute to strike the underlying bill's appraisal study references, re-emphasize State water law, add public input provisions, reduce the bill's cost and make technical changes. The amendment was adopted by unanimous consent and the bill was forwarded to the Full Resources Committee by unanimous consent. On July 14, 2004, the Full Resources Committee met to mark up the bill. Chairman Pombo offered an amendment to further protect State water rights, as well as federal or State permitted activities or agreements. The amendment was adopted by unanimous consent and the bill as amended was favorably reported to the House of Representatives by unanimous consent.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Authorization of Mokelumne River Regional Water Storage and Conjunctive Use Project Study*

This section authorizes the Secretary of the Interior to prepare a feasibility study entitled the "Mokelumne River Regional Water Storage and Conjunctive Use Project Study" for additional water supply and water management flexibility purposes.

*Section 2. Use of reports and other information*

In developing the feasibility study, the Secretary is authorized to use reports and other relevant information supplied by the Mokelumne River Water and Power Authority, the East Bay Municipal District and other stakeholders.

*Section 3. Deadline*

No later than two years after enactment of this bill, the Secretary is directed to complete the feasibility study and provide copies of the study to the House Committee on Resources and Senate Energy and Natural Resources Committee.

*Section 4. Cost shares*

This section states that the federal cost share of the study shall not exceed 50%. The section also directs the Secretary to accept in-kind contributions from the Mokelumne River Water and Power Authority, as appropriate. Such contribution shall be counted as part of the non-federal cost share for the study.

*Section 5. Water rights*

This section specifies that nothing in the bill shall be construed to invalidate, preempt or create any exception to State water law, State water rights, or federal or State permitted activities or agreements.

*Section 6. Authorization of appropriations*

This section authorizes \$3 million in federal funding to complete the Mokelumne River Regional Water Storage and Conjunctive Use Project Study.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 23, 2004.*

Hon. RICHARD W. POMBO,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4045, a bill to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

ELIZABETH ROBINSON  
(For Douglas Holtz-Eakin, Director).

Enclosure.

*H.R. 4045—A bill to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River, and for other purposes*

Summary: H.R. 4045 would authorize the appropriation of \$3 million for a study to determine the feasibility of constructing a water storage project on the Mokelumne River in California. The federal share of the cost of the study would not exceed 50 percent.

Assuming appropriation of the authorized amount, CBO estimates that implementing H.R. 4045 would cost \$3 million over the 2005–2006 period. Enacting this bill would not affect direct spending or revenues.

H.R. 4045 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Any state or local government choosing to participate in this study would do so voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4045 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

For this estimate, CBO assumes that H.R. 4045 will be enacted near the end of fiscal year 2004 and that the authorized amount will be appropriated in 2005. Based on historical spending patterns of similar projects, CBO estimates that implementing this bill would cost \$3 million over the 2005–2006 period.

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level .....	3	0	0	0	0
Estimated Outlays .....	2	1	0	0	0

Intergovernmental and private-sector impact: H.R. 4045 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Any state or local government choosing to participate in this study would do so voluntarily.

Estimate prepared by: Federal Costs: Julie Middleton (226-2860); Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Amina Masood.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

