

JACKSON GULCH REHABILITATION ACT OF 2008

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JULY 31, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 3437]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3437) to authorize the Secretary of the Interior to carry out the Jackson Gulch rehabilitation project in the State of Colorado, 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. SHORT TITLE.

This Act may be cited as the “Jackson Gulch Rehabilitation Act of 2008”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **ASSESSMENT.**—The term “assessment” means the engineering document that is—

(A) entitled “Jackson Gulch Inlet Canal Project, Jackson Gulch Outlet Canal Project, Jackson Gulch Operations Facilities Project: Condition Assessment and Recommendations for Rehabilitation”;

(B) dated February 2004; and

(C) on file with the Bureau of Reclamation.

(2) **DISTRICT.**—The term “District” means the Mancos Water Conservancy District established under the Water Conservancy Act (Colo. Rev. Stat. 37–45–101 et seq.).

(3) **PROJECT.**—The term “Project” means the Jackson Gulch rehabilitation project, a program for the rehabilitation of the Jackson Gulch Canal system and other infrastructure in the State, as described in the assessment.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(5) **STATE.**—The term “State” means the State of Colorado.

SEC. 3. AUTHORIZATION OF JACKSON GULCH REHABILITATION PROJECT.

(a) **IN GENERAL.**—Subject to the reimbursement requirement described in subsection (c), the Secretary shall pay the Federal share of the total cost of carrying out the Project.

(b) **USE OF EXISTING INFORMATION.**—In preparing any studies relating to the Project, the Secretary shall, to the maximum extent practicable, use existing studies, including engineering and resource information provided by, or at the direction of—

- (1) Federal, State, or local agencies; and
- (2) the District.

(c) **REIMBURSEMENT REQUIREMENT.**—

(1) **AMOUNT.**—The Secretary shall recover from the District as reimbursable expenses the lesser of—

- (A) the amount equal to 35 percent of the cost of the Project; or
- (B) \$2,900,000.

(2) **MANNER.**—The Secretary shall recover reimbursable expenses under paragraph (1)—

- (A) in a manner agreed to by the Secretary and the District;
- (B) over a period of 15 years; and
- (C) with no interest.

(3) **CREDIT.**—In determining the exact amount of reimburseable expenses to be recovered from the District, the Secretary shall credit the District for any amounts it paid before the date of the enactment of this Act for engineering work and improvements directly associated with the Project.

(d) **PROHIBITION ON OPERATION AND MAINTENANCE COSTS.**—The District shall be responsible for the operation and maintenance of any facility constructed or rehabilitated under this Act.

(e) **LIABILITY.**—The United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed under this Act.

(f) **EFFECT.**—An activity provided Federal funding under this Act shall not be considered a supplemental or additional benefit under—

- (1) the reclamation laws; or
- (2) the Act of August 11, 1939 (16 U.S.C. 590y et seq.).

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to pay the Federal share of the total cost of carrying out the Project \$8,250,000.

PURPOSE OF THE BILL

The purpose of H.R. 3437 is to authorize the Secretary of the Interior to carry out the Jackson Gulch rehabilitation project in the State of Colorado.

BACKGROUND AND NEED FOR LEGISLATION

Completed in 1950, the Mancos Project canal delivers water from Jackson Gulch Dam to residents, farms, and businesses in Montezuma County, Colorado. The Mancos Project and the Jackson Gulch Dam provide supplemental agricultural water for about 8,650 irrigated acres and a domestic water supply for Mesa Verde National Park. The Mancos Project also delivers water to the more than 500 members of the Mancos Rural Water Company, as well as the town of Mancos. The project can additionally furnish a supplemental water supply to 13,746 acres of irrigated land. After almost 60 years, however, the project has outlived its expected life and is in need of rehabilitation.

Catastrophic failure of the project could result in a shutting off of water to Mesa Verde National Park. The town of Mancos would suffer a severe municipal water shortage, and there would be some loss of crop production. The Mancos Water Conservancy District has obtained a loan from the Colorado Water Conservation Board, which, combined with a recent levy increase, will supply the state and local share of the project rehabilitation costs.

Initially, the Mancos Water Conservancy District paid the Bureau of Reclamation (BOR) in advance for Operation and Maintenance (O&M) for project facilities. In 1963, BOR transferred O&M responsibilities to the District, but title to project facilities remains with the United States. The Project facilities have been inspected annually by BOR. Major rehabilitation is needed on the inlet and outlet canals and associated structures. In 2000, BOR recommended major rehabilitation be completed within the next five years. The District has now completed a study and plan that define the magnitude of rehabilitation needed on Project facilities.

COMMITTEE ACTION

H.R. 3437 was introduced on August 3, 2007 by Rep. John Salazar (D-CO). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On October 24, 2007, the Subcommittee held a hearing on the bill.

The Subcommittee met to mark up the bill on July 15, 2008. Chairwoman Grace Napolitano (D-CA) offered an amendment in the nature of a substitute to increase the authorization for the total cost of the rehabilitation project to \$8.25 million, and to require the Mancos Water Conservancy District to reimburse the federal government over the next 15 years either \$2.9 million or 35 percent of this cost, whichever is lower. The bill, as amended, was adopted by unanimous consent and forwarded to the Full Committee. On July 16, 2008, the Full Natural Resources Committee met to consider the bill. H.R. 2535, as amended, was favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that this Act may be cited as the “Jackson Gulch Rehabilitation Act of 2008.”

Section 2. Definitions

Section 2 provides definitions for terms used in the legislation.

Section 3. Authorization of Jackson Gulch Rehabilitation Project

Subsection 3(a) provides that, subject to the reimbursement requirements laid out in the bill, the Secretary of the Interior will pay the federal share of the cost of the Project.

Subsection 3(b) states that, in preparing studies for the Project, the Secretary of the Interior will use existing studies, engineering, and resource information provided by federal, state, or local agencies and the Mancos Water Conservancy District.

Subsection 3(c) sets the terms of reimbursement. The Mancos Water Conservancy District must reimburse the government for the lesser of 35 percent of the Project cost or \$2,900,000 over a period of 15 years with no interest. This subsection also contains a provision that allows the District to receive a credit for amounts paid for engineering work and improvements associated with the Project prior to bill enactment.

Subsection 3(d) states that all operation and maintenance costs of the Project's construction and rehabilitation under this Act are the responsibility of the Mancos Water Conservancy District.

Subsection 3(e) limits the liability of the United States for damages relating to facility rehabilitation or construction under this Act.

Subsection 3(f) states that activities under this Act are not to be considered a supplemental or additional benefit under reclamation laws or the Act of August 11, 1939.

Subsection 3(g) authorizes the Secretary of the Interior to spend \$8,250,000 on the rehabilitation of the Project.

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 Natural 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 carry out the Jackson Gulch rehabilitation project in the State of Colorado.

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:

H.R. 3437—Jackson Gulch Rehabilitation Act of 2008

Summary: H.R. 3437 would authorize the Secretary of the Interior to provide funds for the rehabilitation of the Jackson Gulch Canal system in the state of Colorado. Based on information from the Bureau of Reclamation and assuming appropriation of the necessary funds, CBO estimates that implementing H.R. 3437 would cost around \$8 million over the 2009–2013 period.

H.R. 3437 would require the Mancos Water Conservancy District to reimburse the federal government for 35 percent of the project cost, less any funds that the district has contributed to the project under current law. Based on information from the agency, CBO expects that the district would reimburse the government approximately \$2.5 million over the 15-year period following completion of the project. Those funds would be classified as offsetting receipts. If funds were appropriated for the project, the government would collect this amount after the project is complete.

H.R. 3437 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.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3437 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
CHANGE IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	2	2	2	2	0	8
Estimated Outlays	1	2	2	2	1	8

Basis of estimate: For this estimate CBO assumes that H.R. 3437 will be enacted near the beginning of fiscal year 2009 and that the necessary amounts will be appropriated for each fiscal year.

H.R. 3437 would authorize the Secretary of the Interior to provide funds for rehabilitating the Jackson Gulch Canal system in the state of Colorado. Federal funding for the project could only be used for designing and implementing the project; no federal funds could be used for operation and maintenance of the project. Based on information from the Bureau of Reclamation and assuming appropriation of the necessary funds, CBO estimates that implementing H.R. 3437 would cost around \$8 million over the 2009–2013 period.

The legislation would require the Mancos Water Conservancy District—the local water district that oversees the Jackson Gulch Canal system—to reimburse the federal government for 35 percent of the project cost, less any funds that the district has contributed to the project under current law. If appropriations are provided for the project, the government would later collect a total of \$2.5 million in the years following completion (after 2013).

Intergovernmental and private-sector impact: H.R. 3437 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enactment of this bill would benefit the Mancos Water Conservancy District. Any costs to the district would be incurred voluntarily.

Estimate prepared by: Federal Costs: Tyler Kruzich; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 3437 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

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.

