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111TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 111–268

# BAY AREA REGIONAL WATER RECYCLING PROGRAM EXPANSION ACT OF 2009

SEPTEMBER 29, 2009.—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. 2442]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2442) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Water Recycling Program, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

### PURPOSE OF THE BILL

The purpose of H.R. 2442 is to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Water Recycling Program, and for other purposes.

### BACKGROUND AND NEED FOR LEGISLATION

The Bay Area Regional Water Recycling Program (BARWRP) is a partnership among 17 local San Francisco Bay Area water and wastewater agencies, the California Department of Water Resources (DWR), and the Bureau of Reclamation. Federal participation in the BARWRP program was first authorized in 1992, in Title XVI of Public Law 102–575.

The Bay Area Recycled Water Master Plan (Master Plan) was completed in 1999 and identified 33 recycled water treatment plants throughout the Bay Area (except in the North Bay). Most of the projects will be operated by local and/or regional BARWRP member agencies. Since the completion of the Master Plan,

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BARWRP agencies have invested nearly $300 million in local funds for water recycling projects.

The Master Plan identified corridors for cost-effective recycled water delivery, as well as projects to be completed in both the near-term (by 2010) and mid-term (by 2025). It is estimated that the 33 projects identified in the Master Plan will have the potential to supply 125,000 acre-feet of recycled water annually by 2010 and approximately 240,000 acre-feet per year by 2025. This rate of implementation was based upon the Master Plan's analysis of the driving forces of development and cost/benefit analyses. For the near-term program to be fully implemented by 2010, the plan recommended that design and construction costs be funded 25 percent by the federal government, 25 percent by the state government, and 50 percent by local agencies. This would have amounted to funding of $20 million per year each from the federal and state government for years 2000–2010 in order to provide 50 percent of the funding for the near-term implementation of 125,000 acre-feet. This level of funding has not occurred and therefore the short term goal of producing 125,000 acre-feet of water will most likely not be met.

The Bay Area Regional Water Recycling Program Authorization Act of 2007 was enacted into law in the 110th Congress (Public Law 110–229). The legislation authorized seven of the 33 projects in the Master Plan. The seven projects are estimated to provide 11,550 acre-feet of water annually by 2010 and 37,600 acre-feet annually by 2025.

## COMMITTEE ACTION

H.R. 2442 was introduced on May 14, 2009 by Rep. George Miller (D–CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On July 21, 2009 the Subcommittee held a hearing on the bill.

On September 10, 2009 the Subcommittee was discharged from further consideration of H.R. 2442 and the full Natural Resources Committee met to consider the bill. The bill was ordered 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 Bay Area Regional Water Recycling Program Expansion Act of 2009."

*Section 2. Project authorizations*

Section 2 amends the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) by authorizing the Secretary of the Interior to participate in the design and construction of the Central Contra Costa Sanitary District (CCCSD)—Concord Recycled Water Project; the Central Dublin Recycled Water Distribution and Retrofit Project; the Petaluma Recycled Water Project, Phases 2A, 2B, and 3; the Central Redwood City Recycled Water Project; the Palo Alto Recycled Water Pipeline Project; and the Ironhouse Sanitary District—Antioch Recycled Water Project.

This section further provides that in general, the federal share for the projects shall not exceed 25 percent of the total cost of the project, and that the Secretary of the Interior shall not provide funds for the operation and maintenance of the facility. There is an authorization for appropriations of $1.8 million for the CCCSD—Concord Recycled Water Project; $1.15 million for the Central Dublin Recycled Water Distribution and Retrofit Project; $6 million for the Petaluma Recycled Water Project, Phases 2A, 2B, and 3; $8 million for the Central Redwood City Recycled Water Project; $8.25 million for the Palo Alto Recycled Water Pipeline Project; and $7 million for the Ironhouse Sanitary District—Antioch Recycled Water Project.

The six water recycling projects authorized by H.R. 2442, would create up to 14,470 acre-feet of recycled water. The total authorization of appropriations for Section 2 is $32.2 million.

*Section 3. Modification to authorized projects*

Section 3 modifies the cost ceiling for two authorized projects: the Antioch Recycled Water Project and the South Bay Advanced Recycled Water Treatment Facility.

## 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 amend the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Water Recycling Program, and for other purposes.

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 Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 2442—Bay Area Regional Water Recycling Program Expansion Act of 2009*

Summary: H.R. 2442 would authorize the Bureau of Reclamation (BOR) to participate in six new water recycling projects and to increase the federal share of the costs for two existing projects in the San Francisco Bay area of California. Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 2442 would cost $38 million over the 2010–2014 period. Enacting the legislation would not affect direct spending or revenues.

H.R. 2442 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. 2442 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— | | | | | |
|---|---|---|---|---|---|---|
| | 2010 | 2011 | 2012 | 2013 | 2014 | 2010–2014 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Estimated Authorization Level | 8 | 8 | 8 | 8 | 6 | 38 |
| Estimated Outlays | 5 | 7 | 9 | 9 | 8 | 38 |

Basis of estimate: For this estimate, CBO assumes that H.R. 2442 will be enacted near the beginning of fiscal year 2010. Estimated outlays are based on historical spending patterns for similar water recycling projects.

H.R. 2442 would authorize BOR to increase the federal share of project costs by a total of $6 million for two water recycling projects previously authorized in the San Francisco Bay area. The bill also would authorize BOR to design, plan, and construct six new water recycling projects in that area. The bill would authorize the appropriation of $32 million for the new projects to cover 25 percent of those projects' total development costs (about $129 million). In total, the bill would authorize the appropriation of $38 million. (CBO assumes that total would be provided in roughly equal increments over the next five years.) The remaining project costs would be the responsibility of local governments, as would the costs of operating and maintaining the facilities.

Intergovernmental and private-sector impact: H.R. 2442 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Funds authorized to be appropriated by the bill would benefit a number of cities and water districts in California.

Estimate prepared by: Federal Costs: Aurora Swanson; 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. 2442 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 MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

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**SEC. 2. DEFINITION AND TABLE OF CONTENTS.**

For purposes of this Act, the term "Secretary" means the Secretary of the Interior.

TABLE OF CONTENTS

Sec. 1. Short title.

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TITLE XVI—RECLAMATION WASTEWATER AND GROUND WATER STUDIES

Sec. 1601. Short title.

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*Sec. 1649. CCCSD-Concord recycled water project.*
*Sec. 1650. Central Dublin recycled water distribution and retrofit project.*
*Sec. 1651. Petaluma recycled water project, phases 2a, 2b, and 3.*
*Sec. 1652. Central Redwood City recycled water project.*
*Sec. 1653. Palo Alto recycled water pipeline project.*
*Sec. 1654. Ironhouse Sanitary District (ISD) Antioch recycled water project.*

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## TITLE XVI—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

**SEC. 1601. SHORT TITLE.**

This title may be referred to as the "Reclamation Wastewater and Groundwater Study and Facilities Act".

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**SEC. 1644. ANTIOCH RECYCLED WATER PROJECT.**

(a) * * *

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section [$2,250,000] *$3,125,000*.

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**SEC. 1648. SOUTH BAY ADVANCED RECYCLED WATER TREATMENT FACILITY.**

(a) * * *

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(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section [$8,250,000] *$13,250,000*.

***SEC. 1649. CCCSD-CONCORD RECYCLED WATER PROJECT.***

*(a) AUTHORIZATION.—The Secretary, in cooperation with the Central Contra Costa Sanitary District, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.*

*(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

*(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,800,000.*

***SEC. 1650. CENTRAL DUBLIN RECYCLED WATER DISTRIBUTION AND RETROFIT PROJECT.***

*(a) AUTHORIZATION.—The Secretary, in cooperation with the Dublin San Ramon Services District, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.*

*(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

*(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,150,000.*

***SEC. 1651. PETALUMA RECYCLED WATER PROJECT, PHASES 2A, 2B, AND 3.***

*(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Petaluma, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.*

*(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

*(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000.*

***SEC. 1652. CENTRAL REDWOOD CITY RECYCLED WATER PROJECT.***

*(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.*

*(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

*(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,000,000.*

***SEC. 1653. PALO ALTO RECYCLED WATER PIPELINE PROJECT.***

*(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Palo Alto, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.*

*(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

*(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,250,000.*

***SEC. 1654. IRONHOUSE SANITARY DISTRICT (ISD) ANTIOCH RECYCLED WATER PROJECT.***

*(a) AUTHORIZATION.—The Secretary, in cooperation with the Ironhouse Sanitary District (ISD), California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.*

*(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.*

*(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000.*

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