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BAY AREA REGIONAL WATER RECYCLING PROGRAM EXPANSION ACT

SEPTEMBER 27, 2010.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 2442]

The Committee on Energy and Natural Resources, to which was referred the Act (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, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

On page 6, line 11, strike “shall” and insert “may”.

PURPOSE

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

The Bay Area Recycle Water Coalition consists of a group of 17 local San Francisco Bay Area water agencies. Seven recycled water projects were authorized under the Bay Area Regional Water Recycling Program Authorization Act of 2007, Public Law 110-229. H.R. 2442 will authorize 6 additional projects: (1) the Central Contra Costa Sanitary District; (2) the Dublin San Ramon Services District; (3) the City of Petaluma; (4) the City of Redwood City; (5) the City of Palo Alto; and (6) the Ironhouse Sanitary District. It will also authorize additional funding for the existing Antioch Recycled Water Project and the South Bay Advanced Recycled Water Treatment Facility project.

Continued drought conditions in California have resulted in low reliability of imported surface water supplies. Recycled water provides a new source of supply, reducing dependence on surface water while protecting groundwater resources from potential overdraft conditions and promoting wastewater management. The water agencies named in H.R. 2442 will utilize the Bureau of Reclamation's Title XVI program to assist with funding for construction of recycled water distribution system facilities to reclaim, treat, and deliver recycled water for continued beneficial uses throughout the Bay Area region. Under H.R. 2442, federal funding contributions are limited to 25% of the project costs.

LEGISLATIVE HISTORY

H.R. 2442 was sponsored by Representative George Miller and passed the House of Representatives on October 15, 2009. Companion legislation, S. 1138, was introduced by Senator Feinstein and Senator Boxer on May 21, 2009. The Subcommittee on Water and Power held a hearing on S. 1138 and H.R. 2442 on April 27, 2010. The Committee on Energy and Natural Resources adopted an amendment to H.R. 2442 on July 22, 2010, and at its business meeting on August 5, 2010, and ordered it favorably reported with amendment.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on August 5, 2010, by voice vote, recommends that the Senate pass H.R. 2442, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of H.R. 2442, the Committee adopted an amendment. The amendment replaces the word "shall" with the word "may" in providing the secretary discretion to reimburse project beneficiaries for certain construction costs incurred prior to enactment.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title of the bill.

Section 2 amends the Reclamation Wastewater and Groundwater Study and Facilities Act, Title XVI of Public Law 102-575, by adding a new sections authorizing 6 additional project authorizations for: (1) the Central Contra Costa Sanitary District; (2) the Dublin San Ramon Services District; (3) the City of Petaluma; (4) the City of Redwood City; (5) the City of Palo Alto; and (6) the Ironhouse Sanitary District. The federal cost-share shall not exceed 25 percent of the total cost for each project. Section 2 also provides authority to the Bureau of Reclamation to reimburse construction costs incurred prior to enactment.

Section 3 amends the Reclamation Wastewater and Groundwater Study and Facilities Act, Title XVI of Public Law 102-575, (as amended by section 512(a) of Public Law 110-229) to increase funding for the previously authorized Antioch Recycled Water Project and the South Bay Advanced Recycled Water Treatment Facility.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by 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 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 2011–2015 period. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

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—					
	2011	2012	2013	2014	2015	2011–2015
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 2011. Estimated outlays are based on historical spending patterns for similar water resource projects.

H.R. 2442 would authorize the Bureau of Reclamation to design, plan, and construct six new water recycling projects in the San Francisco Bay area. The legislation also would authorize an increase of \$6 million for the federal share of project costs for two water recycling projects previously authorized in the bay area. In total, the bill would authorize the appropriation of \$38 million. CBO assumes that those amounts would be provided in roughly equal increments over the next five years.

Pay-as-you-go considerations: None.

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.

Previous CBO estimate: On September 28, 2009, CBO transmitted a cost estimate for H.R. 2442 as ordered reported by the House Committee on Natural Resources on September 10, 2009, with a subsequent amendment provided to CBO on September 28, 2009. The two versions of the legislation are similar, and the CBO cost estimates are also similar.

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: Peter H. Fontaine, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2442.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 2442 as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 2442 as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

STATEMENT OF KIRA L. FINKLER, DEPUTY COMMISSIONER FOR EXTERNAL AND INTERGOVERNMENTAL AFFAIRS, BU- REAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairwoman and Members of the Subcommittee, I am Kira Finkler, Deputy Commissioner for External and Intergovernmental Affairs at the Bureau of Reclamation (Reclamation). I am pleased to provide the views of the Department of the Interior (Department) on S. 1138, the Bay Area Regional Water Recycling Program (BARWRP) Expansion Act of 2009. For reasons I will discuss below, the Administration cannot support the bill.

S. 1138 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, 43 U.S.C. 390h *et seq.*), commonly called Title XVI, to authorize the Secretary of the Interior to participate in the design, planning, and construction of six new permanent facilities needed to reclaim, reuse, and treat groundwater and wastewater in the greater San Francisco Bay Area. The legislation would also increase the Federal cost share for two previously-authorized Title XVI projects in the same area from \$10.5 million to \$16.3 million. S. 1138 would increase the number of BARWRP projects from eight to fourteen. These new projects are being implemented by the Central Contra Costa Sanitary District, the Dublin San Ramon Services District, the City of Petaluma, the City of Redwood City, the City of Palo Alto, and the Ironhouse Sanitary District. The Federal cost share in-

creases would be for the Delta Diablo Sanitation District and the Santa Clara Valley Water District.

NEW PROJECTS

The Central Contra Costa Sanitary District's Concord Recycled Water Project feasibility report has been reviewed by Reclamation; a feasibility certification is expected to be made in April 2010.

The Dublin San Ramon Services District's Central Dublin Recycled Water Distribution and Retrofit Project's feasibility materials were determined complete in December 2009.

The City of Petaluma's Petaluma Recycled Water Project, Phase 2A, 2B, and 3 has not been determined to have a complete feasibility study. The City expects to submit feasibility materials by June 2010.

The City of Redwood City has not submitted a complete feasibility report, financial capability information, or a NEPA compliance document for Reclamation's review and determination for the Central Redwood City Recycled Water Project. The City is currently updating its city-wide General Plan; it is planned to be adopted by City Council in summer of 2010. Planning for the Central Redwood City project, including preparation of a feasibility report will begin after adoption of the General Plan.

The City of Palo Alto's Recycled Water Pipeline Project has not been determined to have a complete feasibility study. The City has not submitted financial capability information. The City anticipates submitting feasibility study materials by June 2010. The City continues to work on a NEPA compliance document.

The Ironhouse Sanitary District has not submitted a feasibility report, financial capability information, or a NEPA compliance document for Reclamation's review and determination for the Antioch Recycled Water Project. The District anticipates their recycled water master plan will be completed by the end of summer 2010. This plan will be the basis of the feasibility report that will be submitted in 2011. NEPA related work is also anticipated for 2011.

PREVIOUSLY AUTHORIZED PROJECTS—INCREASED COST SHARE

Delta Diablo Sanitation District's Antioch Recycled Water Project is authorized for construction, has been determined to have completed the necessary feasibility studies; it is financially capable under the Title XVI program, and is NEPA compliant.

Santa Clara Valley Water District's South Bay Advanced Recycled Water Treatment Facility is authorized for construction, has been determined to have completed the necessary feasibility studies; it is financially capable under the Title XVI program, and is NEPA compliant.

S. 1138 would authorize these projects under Title XVI for Federal funding with project-specific maximum Federal

cost shares that do not to exceed 25 percent of the estimated total project cost.

While the Department supports efforts to increase local water supplies and increase recycled water use, these projects would compete for funds with other needs within the Reclamation program, including other Title XVI projects currently under construction. In general, the Department supports the Title XVI Reclamation and Reuse program. The 2011 budget proposal includes funding for the Department's WaterSMART Program, and Title XVI is an important element of that program. Specifically, the 2011 budget proposal includes \$29 million for the Title XVI program, a 113% increase over the 2010 enacted level.

As part of this total, the Department is requesting \$20 million for Title XVI projects to be selected using criteria to identify activities most closely aligned with Title XVI statutory and program goals. On March 15, 2010, Reclamation posted an announcement inviting comment on draft funding criteria for Title XVI projects. After these criteria are finalized with comments received up through April 16, Reclamation will review and rank Title XVI project proposals received based on those criteria subject to appropriations in fiscal year 2011.

Separately, in July of 2009, the Department announced the allocation of approximately \$135 million in grants for specific authorized Title XVI projects using funds from the American Recovery and Reinvestment Act of 2009, or ARRA. We recognize that water reuse is an essential tool in stretching the limited water supplies in the West, and I believe the FY 2011 Budget request on top of the ARRA funding has demonstrated the emphasis placed by this Administration on this Program. However, given that there are 53 already authorized Title XVI projects and numerous competing mission priorities and demands on Reclamation's budget, the Department cannot support the authorization of new Title XVI projects or extensions of existing authorized cost ceilings at this time.

Reclamation will, however, continue to work with project proponents to evaluate the feasibility of their projects.

Madam Chairwoman, this concludes my testimony. Thank you for the opportunity to comment on S. 1138. I would be pleased to answer any questions at this time.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill H.R. 2442 as ordered 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**

Public Law 102–575, Title XVI, Section 16XX (106 Stat. 4663)

AN ACT To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to expand the Bay Area Regional Water Recycling Program, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reclamation Projects Authorization and Adjustment Act of 1992”.

SEC. 2. DEFINITION AND TABLE OF CONTENTS.

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Sec. 16XX. Central Dublin recycled water distribution and retrofit project.

Sec. 16XX. Petaluma recycled water project, phases 2a, 2b, and 3.

Sec. 16XX. Central Redwood City recycled water project.

Sec. 16XX. Palo Alto recycled water pipeline project.

Sec. 16XX. 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) AUTHORIZATION.—The Secretary, in cooperation with the City of Antioch, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

* * * * *

(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) AUTHORIZATION.—The Secretary, in cooperation with the City of San Jose, California, and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water treatment facilities.

* * * * *

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

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SEC. 16XX. 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. 16XX. 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. 16XX. 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. 16XX. 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. 16XX. 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. 16XX. 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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