

111TH CONGRESS
1ST SESSION

H. R. 922

To authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2009

Mr. LUJÁN introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, and for other purposes.

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 “Eastern New Mexico
5 Rural Water System Authorization Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) AUTHORITY.—The term “Authority” means
2 the Eastern New Mexico Rural Water Authority, an
3 entity formed under State law for the purposes of
4 planning, financing, developing, and operating the
5 System.

6 (2) ENGINEERING REPORT.—The term “engi-
7 neering report” means the report entitled “Eastern
8 New Mexico Rural Water System Preliminary Engi-
9 neering Report” and dated October 2006.

10 (3) PLAN.—The term “plan” means the oper-
11 ation, maintenance, and replacement plan required
12 by section 4(b).

13 (4) SECRETARY.—The term “Secretary” means
14 the Secretary of the Interior.

15 (5) STATE.—The term “State” means the State
16 of New Mexico.

17 (6) SYSTEM.—

18 (A) IN GENERAL.—The term “System”
19 means the Eastern New Mexico Rural Water
20 System, a water delivery project designed to de-
21 liver approximately 16,500 acre-feet of water
22 per year from the Ute Reservoir to the cities of
23 Clovis, Elida, Grady, Melrose, Portales, and
24 Texico and other locations in Curry, Roosevelt,
25 and Quay Counties in the State.

1 (B) INCLUSIONS.—The term “System” in-
2 cludes the major components and associated in-
3 frastructure identified as the “Best Technical
4 Alternative” in the engineering report.

5 (7) UTE RESERVOIR.—The term “Ute Res-
6 ervoir” means the impoundment of water created in
7 1962 by the construction of the Ute Dam on the Ca-
8 nadian River, located approximately 32 miles up-
9 stream of the border between New Mexico and
10 Texas.

11 **SEC. 3. EASTERN NEW MEXICO RURAL WATER SYSTEM.**

12 (a) FINANCIAL ASSISTANCE.—

13 (1) IN GENERAL.—The Secretary may provide
14 financial and technical assistance to the Authority to
15 assist in planning, designing, conducting related
16 preconstruction activities for, and constructing the
17 System.

18 (2) USE.—

19 (A) IN GENERAL.—Any financial assist-
20 ance provided under paragraph (1) shall be ob-
21 ligated and expended only in accordance with a
22 cooperative agreement entered into under sec-
23 tion 5(a)(2).

1 (B) LIMITATIONS.—Financial assistance
2 provided under paragraph (1) shall not be
3 used—

4 (i) for any activity that is inconsistent
5 with constructing the System; or

6 (ii) to plan or construct facilities used
7 to supply irrigation water for irrigated ag-
8 ricultural purposes.

9 (b) COST-SHARING REQUIREMENT.—

10 (1) IN GENERAL.—The Federal share of the
11 total cost of any activity or construction carried out
12 using amounts made available under this Act shall
13 be not more than 75 percent of the total cost of the
14 System.

15 (2) SYSTEM DEVELOPMENT COSTS.—For pur-
16 poses of paragraph (1), the total cost of the System
17 shall include any costs incurred by the Authority or
18 the State on or after October 1, 2003, for the devel-
19 opment of the System.

20 (c) LIMITATION.—No amounts made available under
21 this Act may be used for the construction of the System
22 until—

23 (1) a plan is developed under section 4(b); and

24 (2) the Secretary and the Authority have com-
25 plied with any requirements of the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
2 seq.) applicable to the System.

3 (d) TITLE TO PROJECT WORKS.—Title to the infra-
4 structure of the System shall be held by the Authority or
5 as may otherwise be specified under State law.

6 **SEC. 4. OPERATION, MAINTENANCE, AND REPLACEMENT**
7 **COSTS.**

8 (a) IN GENERAL.—The Authority shall be responsible
9 for the annual operation, maintenance, and replacement
10 costs associated with the System.

11 (b) OPERATION, MAINTENANCE, AND REPLACEMENT
12 PLAN.—The Authority, in consultation with the Secretary,
13 shall develop an operation, maintenance, and replacement
14 plan that establishes the rates and fees for beneficiaries
15 of the System in the amount necessary to ensure that the
16 System is properly maintained and capable of delivering
17 approximately 16,500 acre-feet of water per year.

18 **SEC. 5. ADMINISTRATIVE PROVISIONS.**

19 (a) COOPERATIVE AGREEMENTS.—

20 (1) IN GENERAL.—The Secretary may enter
21 into any contract, grant, cooperative agreement, or
22 other agreement that is necessary to carry out this
23 Act.

24 (2) COOPERATIVE AGREEMENT FOR PROVISION
25 OF FINANCIAL ASSISTANCE.—

1 (A) IN GENERAL.—The Secretary shall
2 enter into a cooperative agreement with the Au-
3 thority to provide financial assistance and any
4 other assistance requested by the Authority for
5 planning, design, related preconstruction activi-
6 ties, and construction of the System.

7 (B) REQUIREMENTS.—The cooperative
8 agreement entered into under subparagraph (A)
9 shall, at a minimum, specify the responsibilities
10 of the Secretary and the Authority with respect
11 to—

12 (i) ensuring that the cost-share re-
13 quirements established by section 3(b) are
14 met;

15 (ii) completing the planning and final
16 design of the System;

17 (iii) any environmental and cultural
18 resource compliance activities required for
19 the System; and

20 (iv) the construction of the System.

21 (b) TECHNICAL ASSISTANCE.—At the request of the
22 Authority, the Secretary may provide to the Authority any
23 technical assistance that is necessary to assist the Author-
24 ity in planning, designing, constructing, and operating the
25 System.

1 (c) BIOLOGICAL ASSESSMENT.—The Secretary shall
2 consult with the New Mexico Interstate Stream Commis-
3 sion and the Authority in preparing any biological assess-
4 ment under the Endangered Species Act of 1973 (16
5 U.S.C. 1531 et seq.) that may be required for planning
6 and constructing the System.

7 (d) EFFECT.—Nothing in this Act—

8 (1) affects or preempts—

9 (A) State water law; or

10 (B) an interstate compact relating to the
11 allocation of water; or

12 (2) confers on any non-Federal entity the abil-
13 ity to exercise any Federal rights to—

14 (A) the water of a stream; or

15 (B) any groundwater resource.

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

17 (a) IN GENERAL.—In accordance with the adjust-
18 ment carried out under subsection (b), there is authorized
19 to be appropriated to the Secretary to carry out this Act
20 an amount not greater than \$327,000,000.

21 (b) ADJUSTMENT.—The amount made available
22 under subsection (a) shall be adjusted to reflect changes
23 in construction costs occurring after January 1, 2007, as
24 indicated by engineering cost indices applicable to the
25 types of construction necessary to carry out this Act.

1 (c) NONREIMBURSABLE AMOUNTS.—Amounts made
2 available to the Authority in accordance with the cost-
3 sharing requirement under section 3(b) shall be nonreim-
4 bursable and nonreturnable to the United States.

5 (d) AVAILABILITY OF FUNDS.—At the end of each
6 fiscal year, any unexpended funds appropriated pursuant
7 to this Act shall be retained for use in future fiscal years
8 consistent with this Act.

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