

Union Calendar No. 164

109TH CONGRESS
1ST SESSION

H. R. 125

[Report No. 109–297, Part 1]

To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mr. ISSA (for himself and Mr. CALVERT) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

NOVEMBER 16, 2005

Reported from the Committee on Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

NOVEMBER 16, 2005

Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 4, 2005]

A BILL

To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, 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. DEFINITIONS.**

4 *For the purposes of this section, the following defini-*
5 *tions apply:*

6 (1) *DISTRICT.*—*The term “District” means the*
7 *Fallbrook Public Utility District, San Diego County,*
8 *California.*

9 (2) *PROJECT.*—*The term “Project” means the*
10 *impoundment, recharge, treatment, and other facili-*
11 *ties the construction, operation, and maintenance of*
12 *which is authorized under subsection (b).*

13 **SEC. 2. AUTHORIZATION FOR CONSTRUCTION OF LOWER**
14 **SANTA MARGARITA CONJUNCTIVE USE**
15 **PROJECT.**

16 (a) *AUTHORIZATION.*—*The Secretary, acting pursuant*
17 *to the Federal reclamation laws (Act of June 17, 1902; 32*
18 *Stat. 388), and Acts amendatory thereof or supplementary*
19 *thereto, as far as those laws are not inconsistent with the*
20 *provisions of this Act, is authorized to construct, operate,*
21 *and maintain the Santa Margarita Conjunctive Use Project*
22 *substantially in accordance with the final feasibility report*
23 *and this Act.*

1 (b) *CONDITIONS.*—*The Secretary of the Interior may*
2 *construct the Project only after the Secretary of the Interior*
3 *determines that the following conditions have occurred:*

4 (1) *The District has entered into a contract*
5 *under section 9(d) of the Reclamation Project Act of*
6 *1939 to repay to the United States appropriate por-*
7 *tions, as determined by the Secretary, of the actual*
8 *costs of constructing, operating, and maintaining the*
9 *Project, together with interest as hereinafter provided.*

10 (2) *The officer or agency of the State of Cali-*
11 *ifornia authorized by law to grant permits for the ap-*
12 *propriation of water has granted such permits to the*
13 *Bureau of Reclamation for the benefit of the Depart-*
14 *ment of the Navy and the District as permittees for*
15 *rights to the use of water for storage and diversion as*
16 *provided in this Act, including approval of all req-*
17 *uisite changes in points of diversion and storage, and*
18 *purposes and places of use.*

19 (3) *The District has agreed that it will not assert*
20 *against the United States any prior appropriative*
21 *right the District may have to water in excess of the*
22 *quantity deliverable to it under this Act, and will*
23 *share in the use of the waters impounded by the*
24 *Project on the basis of equal priority and in accord-*
25 *ance with the ratio prescribed in section 4(b). This*

1 *agreement and waiver and the changes in points of*
2 *diversion and storage under paragraph (2), shall be-*
3 *come effective and binding only when the Project has*
4 *been completed and put into operation.*

5 *(4) The Secretary of the Interior has determined*
6 *that the Project has economic, environmental, and en-*
7 *gineering feasibility.*

8 **SEC. 3. COSTS.**

9 *The Department of the Navy shall not be responsible*
10 *for any costs in connection with the Project, except upon*
11 *completion and then shall be charged in reasonable propor-*
12 *tion to its use of the Project under regulations agreed upon*
13 *by the Secretary of the Navy and Secretary of the Interior.*

14 **SEC. 4. OPERATION; YIELD ALLOTMENT; DELIVERY.**

15 *(a) OPERATION.—The operation of the Project may be*
16 *by the Secretary of the Interior or otherwise as agreed upon*
17 *by the Secretaries of the Interior and the Navy and the Dis-*
18 *trict, under regulations satisfactory to the Secretary of the*
19 *Navy with respect to the Navy's share of the impounded*
20 *water and national security.*

21 *(b) YIELD ALLOTMENT.—Except as otherwise agreed*
22 *between the parties, the Department of the Navy and the*
23 *District shall participate in the water impounded by the*
24 *Project on the basis of equal priority and in accordance*
25 *with the following ratio:*

1 (1) 60 percent of the Project's yield is allotted to
2 the Secretary of the Navy.

3 (2) 40 percent of the Project's yield is allotted to
4 the District.

5 (c) *CONTRACTS FOR DELIVERY OF WATER.*—

6 (1) *IN GENERAL.*—If the Secretary of the Navy
7 certifies that the Department of the Navy does not
8 have immediate need for any portion of the 60 per-
9 cent yield allotted under subsection (b), the official
10 agreed upon to administer the Project may enter into
11 temporary contracts for the delivery of the excess
12 water.

13 (2) *FIRST RIGHT FOR EXCESS WATER.*—The first
14 right of the Secretary of the Navy to demand that
15 water without charge and without obligation on the
16 part of the United States after 30 days notice shall
17 be included as a condition of contracts entered into
18 under this subsection. The first right to water avail-
19 able under paragraph (1) shall be given the District,
20 if otherwise consistent with the laws of the State of
21 California.

22 (3) *DISPOSITION OF FUNDS.*—Moneys paid to the
23 United States under a contract under this subsection
24 shall be covered into the general Treasury or to the
25 Secretary of the Navy, as services in lieu of payment

1 *for operation and maintenance of the Project, and*
2 *shall not be applied against the indebtedness of the*
3 *District to the United States.*

4 (4) *MODIFICATION OF RIGHTS AND OBLIGATIONS*
5 *RELATED TO WATER YIELD.—The rights and obliga-*
6 *tions of the United States and the District regarding*
7 *the ratio or amounts of Project yield delivered may*
8 *be modified by an agreement between the parties.*

9 **SEC. 5. REPAYMENT OBLIGATION OF THE DISTRICT.**

10 (a) *IN GENERAL.—The general repayment obligation*
11 *of the District shall be determined by the Secretary of the*
12 *Interior consistent with the Water Supply Act of 1958; pro-*
13 *vided, however, that for the purposes of calculating interest*
14 *and determining the time when the District's repayment*
15 *obligation to the United States commences, the pumping*
16 *and treatment of groundwater from the Project shall be*
17 *deemed equivalent to the first use of water from a water*
18 *storage project.*

19 (b) *MODIFICATION OF RIGHTS AND OBLIGATION BY*
20 *AGREEMENT.—The rights and obligations of the United*
21 *States and the District regarding the repayment obligation*
22 *of the District may be modified by an agreement between*
23 *the parties.*

1 **SEC. 6. TRANSFER OF CARE, OPERATION, AND MAINTENANCE.**
2

3 *The Secretary may transfer to the District, or a mutu-*
4 *ally agreed upon third party, the care, operation, and*
5 *maintenance of the Project under conditions satisfactory to*
6 *that Secretary and the District, and with respect to the por-*
7 *tion of the Project that is located within the boundaries of*
8 *Camp Pendleton, satisfactory also to the Secretary of the*
9 *Navy. If such a transfer takes place, the District shall be*
10 *entitled to an equitable credit for the costs associated with*
11 *the Secretary's proportionate share of the operation and*
12 *maintenance of the Project. The amount of such costs shall*
13 *be applied against the indebtedness of the District to the*
14 *United States.*

15 **SEC. 7. SCOPE OF ACT.**

16 *For the purpose of this Act, the basis, measure, and*
17 *limit of all rights of the United States pertaining to the*
18 *use of water shall be the laws of the State of California.*
19 *That nothing in this Act shall be construed—*

20 *(1) as a grant or a relinquishment by the United*
21 *States of any rights to the use of water that it ac-*
22 *quired according to the laws of the State of Cali-*
23 *fornia, either as a result of its acquisition of the lands*
24 *comprising Camp Joseph H. Pendleton and adjoining*
25 *naval installations, and the rights to the use of water*
26 *as a part of that acquisition, or through actual use*

1 (2) *shall not be administered or operated in any*
2 *way which will impair or deplete the quantities of*
3 *water the use of which the United States would be en-*
4 *titled under the laws of the State of California had*
5 *the Project not been built.*

6 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

7 *There is authorized to be appropriated, out of any*
8 *money in the Treasury of the United States not otherwise*
9 *appropriated, the following:*

10 (1) *\$60,000,000 (the current estimated construc-*
11 *tion cost of the Project, plus or minus such amounts*
12 *as may be indicated by the engineering cost indices*
13 *for this type of construction); and*

14 (2) *such sums as may be required to operate and*
15 *maintain the said project.*

16 **SEC. 10. REPORTS TO CONGRESS.**

17 *Not later than 1 year after the date of the enactment*
18 *of this Act and periodically thereafter, the Secretary of the*
19 *Interior and the Secretary of the Navy shall each report*
20 *to the Congress regarding if the conditions specified in sec-*
21 *tion 2(b) have been met and if so, the details of how they*
22 *were met.*

23 **SEC. 11. SUNSET.**

24 *The authority of the Secretary of the Interior and the*
25 *Secretary of the Navy to carry out any provision of this*

- 1 *Act shall terminate 10 years after the date of enactment*
- 2 *of this Act.*

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