

110TH CONGRESS  
1ST SESSION

# H. R. 1833

To authorize the Secretary of the Interior to engage in a feasibility study relating to long-term water needs for the area served by the Fryingpan-Arkansas Project, Colorado, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2007

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

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## A BILL

To authorize the Secretary of the Interior to engage in a feasibility study relating to long-term water needs for the area served by the Fryingpan-Arkansas Project, Colorado, 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. FEASIBILITY STUDY.**

4 (a) STUDY.—Pursuant to Federal reclamation law  
5 (the Act of June 7, 1902, and all Acts amendatory thereof  
6 or supplementary thereto), the Secretary, acting through  
7 the Bureau of Reclamation, is authorized to conduct a fea-  
8 sibility study to determine the most feasible method of

1 meeting the present and future water supply and related  
2 storage requirements within the area served by the  
3 Fryingpan-Arkansas Project, including the potential en-  
4 largement of Fryingpan-Arkansas facilities. The feasibility  
5 study shall—

6           (1) be conducted consistent with the document  
7           titled “Economic and Environmental Principles and  
8           Guidelines for Water and Related Land Resources  
9           Implementation Studies” (United States Water Re-  
10          sources Council, 1983, United States Government  
11          Printing Office), any subsequent modifications of  
12          that document, and all applicable Federal statutes;  
13          and

14          (2) include, but not be limited to, an evaluation  
15          of existing and reasonably feasible and practicable  
16          potential water supplies, uses, and management op-  
17          tions as they relate to meeting the document re-  
18          ferred to in paragraph (1).

19          (b) SUBMISSION OF STUDY.—The Secretary shall  
20          submit the feasibility study authorized by this section to  
21          the President and the President Pro Tempore of the Sen-  
22          ate and the Speaker of the House of Representatives.

23          (c) USE OF FUNDS.—No Federal funds shall be ex-  
24          pended for the construction of enlargements or any other  
25          alternative identified in the feasibility study authorized by

1 this section for which authority does not before the date  
2 of the enactment of this Act, without further authorization  
3 by Congress.

4 (d) AUTHORIZATION OF APPROPRIATIONS; MATCH-  
5 ING REQUIREMENT.—There is authorized to be appro-  
6 priated to the Secretary \$4,000,000 to conduct the feasi-  
7 bility study authorized by this section. All Federal funds  
8 made available to conduct that study shall be matched in  
9 equal amount by non-Federal funds.

10 (e) LIMITATION ON CONSTRUCTION.—No construc-  
11 tion to enlarge the Fryingpan-Arkansas Project may be  
12 conducted until the studies referred to in section 3 are  
13 completed.

14 **SEC. 2. SECRETARY AUTHORIZED TO FOLLOW ORIGINAL**  
15 **CONGRESSIONAL INTENT OF PROJECT.**

16 Notwithstanding other provisions of law, the Sec-  
17 retary shall not enter into any new contracts, contract ex-  
18 tensions, or contract renewals—

19 (1) with entities for use of excess capacity space  
20 in Fryingpan-Arkansas facilities to store water or  
21 for use outside of the natural basins of the Arkansas  
22 or Colorado rivers; or

23 (2) that use the Fryingpan-Arkansas facilities  
24 or water rights for beneficial use outside the natural  
25 Basins of the Arkansas River or the Colorado River.

1 **SEC. 3. STATE OF COLORADO STUDIES.**

2 (a) IN GENERAL.—The Secretary of the Interior may  
3 provide financial assistance to the State of Colorado,  
4 under the direction of the Governor of that State, to con-  
5 duct a study, or choose an appropriate organization such  
6 as Colorado State University-Pueblo to conduct a study,  
7 to identify the cumulative impacts of past, current, or pro-  
8 posed transfers of water from the Arkansas and Colorado  
9 River basins to communities not located in the natural ba-  
10 sins of the Arkansas River or the Colorado River, and  
11 from agriculturally based communities within the Arkan-  
12 sas River basin to expanding municipalities within the Ar-  
13 kansas River basin.

14 (b) STUDY CRITERIA.—The study authorized under  
15 this section shall evaluate the following:

16 (1) Environmental impacts such as impacts on  
17 water quality and wildlife habitat, and water supply  
18 both for human and environmental and recreational  
19 uses.

20 (2) Social, cultural, recreational and economic  
21 impacts, including any disproportionate impacts of  
22 minority and/or low-income populations that result  
23 from actual or proposed water exchanges, water  
24 trades, and out-of-basin transfers from the Arkansas  
25 River basin and the Colorado River basin.

1           (3) The financial effects of water transfers out  
2 of the Arkansas River basin and the Colorado River  
3 basin for the sending and receiving communities.

4           (4) The impacts, including cumulative effects,  
5 of proposed water supply and storage methods on  
6 the area served by the Fryingpan-Arkansas Project  
7 and the natural basins of the Arkansas River and  
8 the Colorado River within Colorado that may be im-  
9 pacted by the implementation of such water supply  
10 and storage methods, taking into account the hydro-  
11 logic conditions during the period from 1982 to the  
12 date the study is conducted.

13           (5) The impacts of return and exchange flows  
14 in the Fountain Creek due to proposed and past  
15 transfers and exchanges of water from the Arkansas  
16 River to municipalities and entities, including the  
17 municipality of Colorado Springs, including but not  
18 limited to—

19                   (A) the effects on water quality and flood  
20 potential; and

21                   (B) mitigation alternatives for identified  
22 impacts, including flood control storage facili-  
23 ties on the Fountain Creek.

1           (6) Any effect to stream flows in the Roaring  
2           Fork River due to any expansions of the Fryingpan-  
3           Arkansas facilities.

4           (7) Feasible options to resolve or mitigate the  
5           impacts and effects evaluated in the study.

6           (c) SUBMISSION OF REPORT.—As a condition of as-  
7           sistance under the section, the Governor of Colorado shall  
8           submit a report of the results of the study funded under  
9           this section to the President and the President Pro Tem-  
10          pore of the United States Senate and the Speaker of the  
11          United States House of Representatives upon completion  
12          of the study.

13          (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
14          authorized to be appropriated \$10,000,000 to carry out  
15          this section.

16          **SEC. 4. COLORADO RIVER BASIN PROTECTION.**

17          (a) USE OF WATER STORAGE CAPACITY.—Any ex-  
18          cess water storage capacity of the Fryingpan-Arkansas  
19          Project to divert, store, impound, pump, exchange, or con-  
20          vey nonproject water made available under contracts shall  
21          not be used so as to increase diversion of nonproject water  
22          from the natural basin of the Colorado River within Colo-  
23          rado into another river basin for delivery or storage un-  
24          less—

1           (1) the diversion is the subject of a decree en-  
2           tered before the date of the enactment of this Act  
3           for which no new infrastructure or legal approvals  
4           are necessary to divert the water out of the natural  
5           basin of the Colorado River;

6           (2) the diversion is the subject of an agreement  
7           in existence on the date of the enactment of this  
8           Act, contemplating additional diversions diverted  
9           through or stored in the facilities studied by this  
10          Act, between the beneficiary of such transbasin di-  
11          version and the water conservation district, as de-  
12          fined under Colorado law, from within whose bound-  
13          aries the waters are proposed for diversion;

14          (3) the diversion is the subject of an intergov-  
15          ernmental agreement or other contractual arrange-  
16          ment executed after the date of the enactment of  
17          this Act, between the beneficiary of such transbasin  
18          diversion and the water conservation district, as de-  
19          fined under Colorado law, from within whose bound-  
20          aries the waters are proposed for diversion; or

21          (4) the beneficiary of such transbasin diversion  
22          provides compensatory storage or alternate water  
23          supply in an amount equal to the quantity diverted  
24          out of the basin for the benefit of the water con-  
25          servation district, as defined under Colorado law,

1 from within whose boundaries the waters are pro-  
2 posed for diversion.

3 (b) SUBMISSION OF AGREEMENTS REQUIRED.—

4 Prior to executing any agreement or arrangement for pro-  
5 vision of compensatory storage or alternative water supply  
6 that allows for increased diversions of nonproject water  
7 as described in subsection (a), the parties to such agree-  
8 ments or arrangements shall submit the agreement or ar-  
9 rangement to the Secretary of the Interior, who, within  
10 30 days, shall submit such agreement or arrangement to  
11 the President Pro Tempore of the Senate and the Speaker  
12 of the House of Representatives for a period of not less  
13 than 60 days.

14 (c) NO PRECEDENT.—This section shall not be con-  
15 sidered as precedent for any other congressionally author-  
16 ized project.

17 **SEC. 5. CONTRACTS WITH IN-BASIN ENTITIES.**

18 The Secretary of the Interior is authorized to enter  
19 into contracts with an entity, private or public, for the  
20 use of excess capacity in the Fryingpan-Arkansas Project  
21 for the purpose of diverting, storing, impounding, pump-  
22 ing, exchanging, or conveying nonproject water for irriga-  
23 tion, domestic, municipal and industrial, or any other ben-

- 1 official purpose within the natural basin of the Arkansas
- 2 River within Colorado.

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