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**Legislative Bulletin.....October 15, 2009**

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**H.R. 2442—Bay Area Regional Water Recycling Program Expansion Act of 2009 (Rep. Miller, D-CA)**

**Order of Business:** The bill is scheduled to be considered on Thursday, October 15, 2009 under a closed rule. The rule ([H.Res.830](#)) provides for one hour of debate equally divided and controlled by the majority and minority, waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI, makes in order an amendment in the nature of a substitute to be adopted, and one motion to recommit.

**Major Changes since the bill was last considered on the House Floor:** None. On September 29, 2009, H.R. 2442 was considered under suspension of the rules and defeated by a vote of [240-170](#) because of concerns that House Democrats continue to ignore the water crisis in the San Joaquin Valley of California highlighted below.

**Summary:** H.R. 2442 authorizes a total of \$38.075 million for six new water recycling programs in the San Francisco Bay Area, and extends the authorization for two existing projects.

H.R. 2442 amends the Reclamation Wastewater and Groundwater Study and Facilities Act to permit the Secretary of Interior to work with the six different local water districts in California to participate in the design, planning, and construction of recycled water distribution systems.

The areas include the City of Redwood City (\$8 million), the City of Palo Alto (\$8.25 million), the Ironhouse Sanitary District (\$ 7 million), City of Petaluma (\$6 million), Dublin San Ramon Services District (\$1.15 million), and Central Contra Costa Sanitary District (\$1.8 million). The total authorizations for the projects total \$32.2 million for the new projects with the federal cost share for each project not exceeding 25% of the total cost. The total development costs are estimated to be approximately \$129 million, according to CBO

Additionally, the bill amends current law to raise the authorizations under the Antioch Recycled Water Project from \$2,250,000 to \$3,125,000 and the South Bay Advanced Recycled Water Treatment Facility from \$8,250,000 to \$13,250,000.

**Additional Information:** Established by Congress in 1992, the Reclamation Wastewater and Groundwater Study and Facilities Act, authorizes the federal government to fund up to 25% of

the capital cost of authorized recycling projects. The San Francisco Bay Area Regional Water Recycling Program (BARWRP) was formed in accordance with the bill and ultimately formed a water management plan in 1999 that identified 33 recycled water treatment plants for “cost-effective recycled water delivery.” The 110<sup>th</sup> Congress passed into law (P.L.110-229) legislation that authorized seven of the 33 projects in the original master plan.

### **[Democrat Inconsistency Alert!](#)**

***Let's Prioritize, People:*** Rep. Miller claims the “8 water recycling projects authorized in H.R. 2442 will provide 2.6 billion gallons of water per year to the region” (San Francisco) and will benefit the entire state. However, because of radical environmentalists, nearly 200 billion gallons of water has been denied to San Joaquin Valley families this year because of a three inch fish. It would seem to reason that dealing with the 200 billion gallon issue would do a lot more for the state than H.R. 2442.

**RSC Bonus Fact:** The percentage of the nationwide crop production from California is as follows: Artichokes 19%, Asparagus 55%, Broccoli 93%; Cabbage 22%; Carrots 89%; Celery 94%; Garlic 86%; Lettuce 78%; Cantaloupe 54%; Honeydew 73%; Onions 27%; Bell Peppers 47%; Spinach 18%; Tomatoes 94%; Almond 99%; Apricots 95%; Avocados 84%; Strawberries 90%; Dates 82%; Figs 98%; Grapes 88%; Kiwi 97%; Lemons 89%; Nectarines 93%; Olives 100%; Peaches 76%; Pistachios 96%; Plums 93%; Walnuts 99%; Honey 18%; Milk and cream 21% (Source: BeachCalifornia.com; California Foundation for Agriculture in the Classroom).

**Possible Conservative Concerns:** Some conservatives have expressed concern the bill authorizes 6 water projects in the San Francisco Bay Area, but ignores a water crisis in the San Joaquin Valley of California. The legislation will authorize several projects that stand to benefit only a few congressional districts, but House Democrats refuse to take up an issue that affects an entire region of the state and potentially could cost up to 40,000 jobs and billions in lost income. The situation has been so politicized; it has cost Republicans from even getting votes on suspension bills. Click [here](#) to view a short video on the issue.

According to Rep. Devin Nunes (R-CA) who represents the rural San Joaquin Valley, “environmental statutes and related litigation aimed at protecting species and the Sacramento-San Joaquin Delta water quality have led to serious water conflicts in California. In 1992, the Central Valley Project Improvement Act (P.L. 102-575) required at least 800,000 acre feet of water (equivalent to 261 billion gallons) to be diverted annually for fish and wildlife purposes. In addition to the re-allocation of this water, CVP users were required to pay annual environmental restoration fees that are eventually passed on to consumers. Based on this law alone, taxpayers have been levied with nearly \$830 million in environmental taxes since 1993.”

The most vocal and recent controversy in the San Joaquin Valley involves litigation and federal plans on protecting [Delta smelt](#), a three-inch fish. Environmental organizations have consistently blamed the water pumps as the main cause for smelt’s population decline. To date, hundreds of millions of taxpayer dollars have been spent to investigate the specific causes of smelt declines. In addition, over one million acre feet of water (326 billion gallons) has been dedicated to protecting the species. However, there is no consensus on what is causing the continual decline. Water users maintain that the pumps should stay at operational efficiency until a science-driven process yields results.

A University of California-Davis study found that up to 40,000 San Joaquin Valley jobs will be lost by the end of 2009 and 500,000 acres will be fallowed by the end of the year because of water rationing. The Mayor of Mendota, California -- a community heavily dependent on irrigated agriculture -- has testified that crime rates and truancy have dramatically increased because of high unemployment caused by water shortages. Mendota, which recently had to turn away unemployed farm families from food lines, is currently experiencing an unemployment rate of 40%. There are nearby communities experiencing higher levels of unemployment as well.

**Committee Action:** On May 14, 2009, the bill was introduced and referred to the Committee on Natural Resources. On September 10, 2009, the committee held a mark-up and ordered the bill to be reported by unanimous consent.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** Assuming appropriation of the authorized amounts, "CBO estimates that implementing H.R. 2442 would cost \$38 million over the 2010-2014 period."

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** According to Committee Report 111-268, "H.R. 2092 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(t) of rule XXI."

**Constitutional Authority:** The Natural Resources Committee, in House Report 111-268, cites constitutional authority in Article I, Section 8. House Rule XIII, Section 3(d)(1), requires that all committee reports contain "a statement citing the *specific powers* granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution." [*emphasis added*]

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