

107TH CONGRESS
1ST SESSION

S. 116

To amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2001

Mr. FEINGOLD introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, 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 “Irrigation Subsidy Re-
5 duction Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Federal reclamation program has been
2 in existence for over 90 years, with an estimated
3 taxpayer investment of over \$70,000,000,000;

4 (2) the program has had and continues to have
5 an enormous effect on the water resources and
6 aquatic environments of the western States;

7 (3) irrigation water made available from Fed-
8 eral water projects in the West is a very valuable re-
9 source for which there are increasing and competing
10 demands;

11 (4) the justification for providing water at less
12 than full cost was to benefit and promote the devel-
13 opment of small family farms and exclude large cor-
14 porate farms, but this purpose has been frustrated
15 over the years due to inadequate implementation of
16 subsidy and acreage limits;

17 (5) below-cost water prices tend to encourage
18 excessive use of scarce water supplies in the arid re-
19 gions of the West, and reasonable price increases to
20 the wealthiest western farmers would provide an eco-
21 nomic incentive for greater water conservation;

22 (6) the Federal Government has increasingly
23 applied eligibility tests based on income for Federal
24 entitlement and subsidy programs, measures that
25 are consistent with the historic approach of the rec-

1 lamation program’s acreage limitations that seek to
2 limit water subsidies to smaller farms; and

3 (7) including a means test based on gross in-
4 come in the reclamation program will increase the
5 effectiveness of carrying out the family farm goals of
6 the Federal reclamation laws.

7 **SEC. 3. AMENDMENTS.**

8 (a) DEFINITIONS.—Section 202 of the Reclamation
9 Reform Act of 1982 (43 U.S.C. 390bb) is amended—

10 (1) by redesignating paragraphs (7), (8), (9),
11 (10), and (11) as paragraphs (9), (10), (11), (12),
12 and (13), respectively;

13 (2) in paragraph (6), by striking “owned or op-
14 erated under a lease which” and inserting “that is
15 owned, leased, or operated by an individual or legal
16 entity and that”;

17 (3) by inserting after paragraph (6) the fol-
18 lowing:

19 “(7) LEGAL ENTITY.—The term ‘legal entity’
20 includes a corporation, association, partnership,
21 trust, joint tenancy, or tenancy in common, or any
22 other entity that owns, leases, or operates a farm
23 operation for the benefit of more than 1 individual
24 under any form of agreement or arrangement.

25 “(8) OPERATOR.—

1 “(A) IN GENERAL.—The term ‘operator’—

2 “(i) means an individual or legal enti-
3 ty that operates a single farm operation on
4 a parcel (or parcel) of land that is owned
5 or leased by another person (or persons)
6 under any form of agreement or arrange-
7 ment (or agreements or arrangements);
8 and

9 “(ii) if the individual or legal entity—

10 “(I) is an employee of an indi-
11 vidual or legal entity, includes the in-
12 dividual or legal entity; or

13 “(II) is a legal entity that con-
14 trols, is controlled by, or is under
15 common control with another legal en-
16 tity, includes each such other legal en-
17 tity.

18 “(B) OPERATION OF A FARM OPER-
19 ATION.—For the purposes of subparagraph (A),
20 an individual or legal entity shall be considered
21 to operate a farm operation if the individual or
22 legal entity is the person that performs the
23 greatest proportion of the decisionmaking for
24 and supervision of the agricultural enterprise on
25 land served with irrigation water.”; and

1 (4) by adding at the end the following:

2 “(14) SINGLE FARM OPERATION.—

3 “(A) IN GENERAL.—The term ‘single farm
4 operation’ means the total acreage of land
5 served with irrigation water for which an indi-
6 vidual or legal entity is the operator.

7 “(B) RULES FOR DETERMINING WHETHER
8 SEPARATE PARCELS ARE OPERATED AS A SIN-
9 GLE FARM OPERATION.—

10 “(i) EQUIPMENT- AND LABOR-SHAR-
11 ING ACTIVITIES.—The conduct of
12 equipment- and labor-sharing activities on
13 separate parcels of land by separate indi-
14 viduals or legal entities shall not by itself
15 serve as a basis for concluding that the
16 farming operations of the individuals or
17 legal entities constitute a single farm oper-
18 ation.

19 “(ii) PERFORMANCE OF CERTAIN
20 SERVICES.—The performance by an indi-
21 vidual or legal entity of an agricultural
22 chemical application, pruning, or har-
23 vesting for a farm operation on a parcel of
24 land shall not by itself serve as a basis for
25 concluding that the farm operation on that

1 parcel of land is part of a single farm op-
 2 eration operated by the individual or entity
 3 on other parcels of land.”.

4 (b) IDENTIFICATION OF OWNERS, LESSEES, AND OP-
 5 ERATORS AND OF SINGLE FARM OPERATIONS.—The Rec-
 6 lamation Reform Act of 1982 (43 U.S.C. 390aa et seq.)
 7 is amended by inserting after section 201 the following:
 8 **“SEC. 201A. IDENTIFICATION OF OWNERS, LESSEES, AND**
 9 **OPERATORS AND OF SINGLE FARM OPER-**
 10 **ATIONS.**

11 “(a) IN GENERAL.—Subject to subsection (b), for
 12 each parcel of land to which irrigation water is delivered
 13 or proposed to be delivered, the Secretary shall identify
 14 a single individual or legal entity as the owner, lessee, or
 15 operator.

16 “(b) SHARED DECISIONMAKING AND SUPER-
 17 VISION.—If the Secretary determines that no single indi-
 18 vidual or legal entity is the owner, lessee, or other indi-
 19 vidual that performs the greatest proportion of decision-
 20 making for and supervision of the agricultural enterprise
 21 on a parcel of land—

22 “(1) all individuals and legal entities that own,
 23 lease, or perform a proportion of decisionmaking and
 24 supervision that is equal as among themselves but
 25 greater than the proportion performed by any other

1 individual or legal entity shall be considered jointly
 2 to be the owner, lessee, or operator; and

3 “(2) all parcels of land of which any such indi-
 4 vidual or legal entity is the owner, lessee, or oper-
 5 ator shall be considered to be part of the single farm
 6 operation of the owner, lessee, or operator identified
 7 under subsection (1).”.

8 (c) PRICING.—Section 205 of the Reclamation Re-
 9 form Act of 1982 (43 U.S.C. 390ee) is amended by adding
 10 at the end the following:

11 “(d) SINGLE FARM OPERATIONS GENERATING MORE
 12 THAN \$500,000 IN GROSS FARM INCOME.—

13 “(1) IN GENERAL.—Notwithstanding sub-
 14 sections (a), (b), and (c), in the case of—

15 “(A) a qualified recipient that reports
 16 gross farm income from a single farm operation
 17 in excess of \$500,000 for a taxable year; or

18 “(B) a limited recipient that received irri-
 19 gation water on or before October 1, 1981, and
 20 that reports gross farm income from a single
 21 farm operation in excess of \$500,000 for a tax-
 22 able year;

23 irrigation water may be delivered to the single farm
 24 operation of the qualified recipient or limited recipi-
 25 ent at less than full cost to a number of acres that

1 does not exceed the number of acres determined
2 under paragraph (2).

3 “(2) MAXIMUM NUMBER OF ACRES TO WHICH
4 IRRIGATION WATER MAY BE DELIVERED AT LESS
5 THAN FULL COST.—The number of acres determined
6 under this subparagraph is the number equal to the
7 number of acres of the single farm operation multi-
8 plied by a fraction, the numerator of which is
9 \$500,000 and the denominator of which is the
10 amount of gross farm income reported by the quali-
11 fied recipient or limited recipient in the most recent
12 taxable year.

13 “(3) INFLATION ADJUSTMENT.—

14 “(A) IN GENERAL.—The \$500,000 amount
15 under paragraphs (1) and (2) for any taxable
16 year beginning in a calendar year after 2000
17 shall be equal to the product of—

18 “(i) \$500,000, multiplied by

19 “(ii) the inflation adjustment factor
20 for the taxable year.

21 “(B) INFLATION ADJUSTMENT FACTOR.—

22 The term ‘inflation adjustment factor’ means,
23 with respect to any calendar year, a fraction the
24 numerator of which is the GDP implicit price
25 deflator for the preceding calendar year and the

1 denominator of which is the GDP implicit price
 2 deflator for 2000. Not later than April 1 of any
 3 calendar year, the Secretary shall publish the
 4 inflation adjustment factor for the preceding
 5 calendar year.

6 “(C) GDP IMPLICIT PRICE DEFLATOR.—
 7 For purposes of subparagraph (B), the term
 8 ‘GDP implicit price deflator’ means the first re-
 9 vision of the implicit price deflator for the gross
 10 domestic product as computed and published by
 11 the Secretary of Commerce.

12 “(D) ROUNDING.—If any increase deter-
 13 mined under subparagraph (A) is not a multiple
 14 of \$100, the increase shall be rounded to the
 15 next lowest multiple of \$100.”.

16 (d) CERTIFICATION OF COMPLIANCE.—Section 206
 17 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff)
 18 is amended to read as follows:

19 **“SEC. 206. CERTIFICATION OF COMPLIANCE.**

20 “(a) IN GENERAL.—As a condition to the receipt of
 21 irrigation water for land in a district that has a contract
 22 described in section 203, each owner, lessee, or operator
 23 in the district shall furnish the district, in a form pre-
 24 scribed by the Secretary, a certificate that the owner, les-
 25 see, or operator is in compliance with this title, including

1 a statement of the number of acres owned, leased, or oper-
2 ated, the terms of any lease or agreement pertaining to
3 the operation of a farm operation, and, in the case of a
4 lessee or operator, a certification that the rent or other
5 fees paid reflect the reasonable value of the irrigation
6 water to the productivity of the land.

7 “(b) DOCUMENTATION.—The Secretary may require
8 a lessee or operator to submit for the Secretary’s
9 examination—

10 “(1) a complete copy of any lease or other
11 agreement executed by each of the parties to the
12 lease or other agreement; and

13 “(2) a copy of the return of income tax imposed
14 by chapter 1 of the Internal Revenue Code of 1986
15 for any taxable year in which the single farm oper-
16 ation of the lessee or operator received irrigation
17 water at less than full cost.”.

18 (e) TRUSTS.—Section 214 of the Reclamation Re-
19 form Act of 1982 (43 U.S.C. 390nn) is repealed.

20 (f) ADMINISTRATIVE PROVISIONS.—

21 (1) PENALTIES.—Section 224(c) of the Rec-
22 lamation Reform Act of 1982 (43 U.S.C. 390ww(e))
23 is amended—

24 (A) by striking “(c) The Secretary” and
25 inserting the following:

1 “(c) REGULATIONS; DATA COLLECTION; PEN-
2 ALTIES.—

3 “(1) REGULATIONS; DATA COLLECTION.—The
4 Secretary”; and

5 (B) by adding at the end the following:

6 “(2) PENALTIES.—Notwithstanding any other
7 provision of law, the Secretary shall establish appro-
8 priate and effective penalties for failure to comply
9 with any provision of this Act or any regulation
10 issued under this Act.”.

11 (2) INTEREST.—Section 224(i) of the Reclama-
12 tion Reform Act of 1982 (43 U.S.C. 390ww(i)) is
13 amended by striking the last sentence and inserting
14 the following: “The interest rate applicable to under-
15 payments shall be equal to the rate applicable to ex-
16 penditures under section 202(3)(C).”.

17 (g) REPORTING.—Section 228 of the Reclamation
18 Reform Act of 1982 (43 U.S.C. 390zz) is amended by in-
19 serting “operator or” before “contracting entity” each
20 place it appears.

21 (h) MEMORANDUM OF UNDERSTANDING.—The Rec-
22 lamation Reform Act of 1982 (43 U.S.C. 390aa et seq.)
23 is amended—

24 (1) by redesignating sections 229 and 230 as
25 sections 230 and 231; and

1 (2) by inserting after section 228 the following:

2 **“SEC. 229. MEMORANDUM OF UNDERSTANDING.**

3 “The Secretary, the Secretary of the Treasury, and
4 the Secretary of Agriculture shall enter into a memo-
5 randum of understanding or other appropriate instrument
6 to permit the Secretary, notwithstanding section 6103 of
7 the Internal Revenue Code of 1986, to have access to and
8 use of available information collected or maintained by the
9 Department of the Treasury and the Department of Agri-
10 culture that would aid enforcement of the ownership and
11 pricing limitations of Federal reclamation law.”.

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