

109TH CONGRESS
1ST SESSION

S. 1540

To authorize the Secretary of the Army and the Secretary of the Interior to establish a program to improve water management and contribute to the recovery of endangered species in the Middle Rio Grande, New Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2005

Mr. DOMENICI (for himself and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To authorize the Secretary of the Army and the Secretary of the Interior to establish a program to improve water management and contribute to the recovery of endangered species in the Middle Rio Grande, New Mexico, 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 “Middle Rio Grande
5 Endangered Species Collaborative Program Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) COLLABORATIVE PROGRAM.—The term
2 “Collaborative Program” means the Middle Rio
3 Grande Endangered Species Collaborative Program
4 established under section 3(a).

5 (2) EXECUTIVE COMMITTEE.—The term “Exec-
6 utive Committee” means the Executive Committee
7 established under section 4(c).

8 (3) INTERESTS IN LAND AND WATER.—The
9 term “interests in land and water” includes pur-
10 chases, leases, easements, and agreements to provide
11 water storage, land, or water that are obtained from
12 willing sellers, lessors, or contributors in compliance
13 with applicable Federal, State, or tribal laws.

14 (4) MIDDLE RIO GRANDE.—

15 (A) IN GENERAL.—The term “Middle Rio
16 Grande” means the headwaters of the Rio
17 Chama and the Rio Grande, including all tribu-
18 taries, from the State line between Colorado
19 and New Mexico downstream to the elevation
20 corresponding with the spillway crest of Ele-
21 phant Butte Dam at 4,457.3 feet mean sea
22 level.

23 (B) EXCLUSION.—The term “Middle Rio
24 Grande” excludes the land area reserved for the
25 full pool of the Elephant Butte Reservoir.

1 (5) MIDDLE RIO GRANDE CONSERVANCY DIS-
 2 TRICT.—The term “Middle Rio Grande Conservancy
 3 District” means the political subdivision of the State
 4 of that name, created in 1925.

5 (6) PROJECT.—

6 (A) IN GENERAL.—The term “project”
 7 means a scientific or management study, a
 8 planning, design, permitting, construction, oper-
 9 ations, maintenance, or replacement activity, or
 10 the acquisition of interests in land or water.

11 (B) INCLUSIONS.—The term “project” in-
 12 cludes—

13 (i) a project begun but not completed
 14 by the Endangered Species Collaborative
 15 Program before the date of enactment of
 16 this Act; and

17 (ii) a project recommended by the Ex-
 18 ecutive Committee after the date of enact-
 19 ment of this Act that carries out the pur-
 20 poses described in section 3(b).

21 (7) RIO GRANDE COMPACT.—The term “Rio
 22 Grande Compact” means the Rio Grande Com-
 23 pact—

1 (A) for which Congress provided consent
2 under the Act of May 31, 1939 (53 Stat. 785,
3 chapter 155); and

4 (B) that was ratified by the States of Colo-
5 rado, New Mexico, and Texas.

6 (8) SECRETARY.—The term “Secretary” means
7 the Secretary of the Army, acting through the Chief
8 of Engineers.

9 (9) SIGNATORY MEMBER.—The term “signatory
10 member” means any Federal, State, or municipal
11 agency, tribe, or public or private organization that
12 has signed the memorandum of agreement described
13 in section 4(c)(1)(C).

14 (10) SILVERY MINNOW.—The term “silvery
15 minnow” means the species *Hybognathus amarus*,
16 commonly known as the Rio Grande silvery minnow,
17 a fish listed as an endangered species, as described
18 in the notice entitled “Final Rule to List the Rio
19 Grande Silvery Minnow as an Endangered Species”
20 (59 Fed. Reg. 36988 (July 20, 1994)).

21 (11) STATE.—The term “State” means the
22 State of New Mexico.

23 (12) TRIBE.—The term “tribe” means an In-
24 dian pueblo or tribe that—

1 (A) occupies land in the Middle Rio
2 Grande; and

3 (B) is included on the list of federally rec-
4 ognized tribes published by the Secretary of the
5 Interior in accordance with section 104 of the
6 Federally Recognized Indian Tribe List Act of
7 1994 (25 U.S.C. 479a-1).

8 (13) WILLOW FLYCATCHER.—The term “willow
9 flycatcher” means the species *Empidonax traillii*
10 *extimus*, commonly known as the southwestern wil-
11 low flycatcher, a migratory bird listed as an endan-
12 gered species, as described in the notice entitled
13 “Final Rule Determining Endangered Status for the
14 Southwestern Willow Flycatcher” (60 Fed. Reg.
15 10694 (February 27, 1995)).

16 **SEC. 3. COLLABORATIVE PROGRAM.**

17 (a) ESTABLISHMENT.—The Secretary, in collabora-
18 tion with the Secretary of the Interior, shall establish the
19 Middle Rio Grande Endangered Species Collaborative Pro-
20 gram in accordance with section 4.

21 (b) PURPOSES.—The purposes of the Collaborative
22 Program shall be—

23 (1) to carry out a long-term plan, including
24 projects to protect, and promote recovery of, the sil-

1 very minnow and willow flycatcher in the Middle Rio
2 Grande;

3 (2) to ensure compliance with the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.) while
5 maintaining water use in the Middle Rio Grande in
6 compliance with applicable law;

7 (3) to support improved water management;

8 (4) to allow continued water development;

9 (5) to benefit overall ecological integrity;

10 (6) to promote cooperation and collaboration in
11 implementation of protection and recovery activities
12 between Federal and non-Federal entities;

13 (7) to coordinate Federal actions that promote
14 protection and recovery of the silvery minnow and
15 willow flycatcher; and

16 (8) to establish a scientific basis for implemen-
17 tation of activities through recovery plans to ensure
18 protection and recovery of the silvery minnow and
19 willow flycatcher.

20 **SEC. 4. COLLABORATIVE PROGRAM STRUCTURE.**

21 (a) REPEAL.—Section 209 of the Energy and Water
22 Development Appropriations Act, 2004 (Public Law 108–
23 137; 117 Stat. 1850) is repealed.

1 (b) ESTABLISHMENT.—The Collaborative Program
2 shall consist of an Executive Committee, a Program Im-
3 plementation Team, and working groups.

4 (c) EXECUTIVE COMMITTEE.—

5 (1) IN GENERAL.—The Secretary, in collabora-
6 tion with the Secretary of the Interior shall—

7 (A) not later than 180 days after the date
8 of enactment of this Act, establish an Executive
9 Committee consisting of Federal and non-Fed-
10 eral entities described in paragraph (2) to—

11 (i) provide guidance to the Program
12 Implementation Team to develop and ap-
13 prove a long-term plan to carry out the
14 purposes of the Collaborative Program;

15 (ii) coordinate Collaborative Program
16 projects for the recovery of the silvery min-
17 now and the willow flycatcher with other
18 Federal and non-Federal activities in the
19 Middle Rio Grande to achieve the greatest
20 effect and limit unnecessary duplication of
21 efforts to the maximum extent practicable;

22 (iii) create, assign, and oversee tasks
23 of the Program Implementation Team and
24 working groups as necessary to implement

1 a long-term plan and otherwise accomplish
2 the purposes of the Collaborative Program;

3 (iv) develop multiyear budget prior-
4 ities and present funding requests to the
5 Corps of Engineers, the Bureau of Rec-
6 lamation, the United States Fish and
7 Wildlife Service, other Federal agencies,
8 and non-Federal entities; and

9 (v) review work products undertaken
10 by the Collaborative Program, including
11 development of plans, budgets, reports,
12 and requests for proposals;

13 (B) consider decisions made by $\frac{3}{4}$ of a
14 quorum as the recommendation to be carried
15 out under the Collaborative Program;

16 (C) develop, consistent with this Act, a
17 memorandum of agreement describing—

18 (i) the goals of the Collaborative Pro-
19 gram;

20 (ii) the responsibilities of the partici-
21 pants to contribute to the success of the
22 Collaborative Program; and

23 (iii) the administrative rules, bylaws,
24 and agreements governing Collaborative
25 Program participation; and

1 (D) in cooperation with the members of
2 the Executive Committee, develop bylaws gov-
3 erning the operations of the Executive Com-
4 mittee.

5 (2) MEMBERSHIP.—

6 (A) IN GENERAL.—Subject to subpara-
7 graph (B), the Executive Committee shall be
8 composed of—

9 (i) 1 permanent voting member rep-
10 resenting the Bureau of Reclamation, ap-
11 pointed by the Secretary of the Interior;

12 (ii) 1 permanent voting member rep-
13 resenting the United States Fish and Wild-
14 life Service, appointed by the Secretary of
15 the Interior;

16 (iii) 1 permanent voting member rep-
17 resenting the Corps of Engineers, ap-
18 pointed by the Secretary;

19 (iv) upon invitation by the Secretary,
20 other voting members who have signed the
21 memorandum of agreement described in
22 paragraph (1)(C), representing any of—

23 (I) the State of New Mexico
24 Interstate Stream Commission;

- 1 (II) the State of New Mexico De-
- 2 partment of Game and Fish;
- 3 (III) the New Mexico Attorney
- 4 General;
- 5 (IV) the Pueblo of Santo Do-
- 6 mingo;
- 7 (V) the Pueblo of Sandia;
- 8 (VI) the Pueblo of Isleta;
- 9 (VII) the Pueblo of Santa Ana;
- 10 (VIII) the Middle Rio Grande
- 11 Conservancy District;
- 12 (IX) the Albuquerque–Bernalillo
- 13 County Water Authority;
- 14 (X) an organization that rep-
- 15 resents a significant portion of the en-
- 16 vironmental community; and
- 17 (XI) an organization that rep-
- 18 resents a significant portion of the
- 19 farming community;
- 20 (v) the non-Federal cochairperson
- 21 elected under paragraph (4); and
- 22 (vi) upon unanimous recommendation
- 23 of the existing members, members rep-
- 24 resenting any additional organizations that

1 sign the memorandum of agreement de-
2 scribed in paragraph (1)(C).

3 (B) MEMBERSHIP CAP.—The total mem-
4 bership of the Executive Committee shall not
5 exceed 20 members.

6 (C) QUORUM.—

7 (i) IN GENERAL.—Except as provided
8 in clause (ii), $\frac{2}{3}$ of the members of the Ex-
9 ecutive Committee shall constitute a
10 quorum.

11 (ii) EXCEPTION.—For purposes of
12 subparagraphs (A) and (C) of paragraph
13 (4), $\frac{2}{3}$ of the non-Federal members of the
14 Executive Committee shall constitute a
15 quorum.

16 (3) FEDERAL COCHAIRPERSON.—

17 (A) IN GENERAL.—The Secretary of the
18 Interior shall select a Federal Cochairperson
19 from the Department of the Interior who
20 shall—

21 (i) be a nonvoting member of the Ex-
22 ecutive Committee;

23 (ii) convene the Executive Committee;

24 (iii) develop committee agendas;

25 (iv) call meetings;

1 (v) schedule votes and other decision-
2 making processes; and

3 (vi) hold the Program Implementation
4 Team accountable for assignments received
5 from the Executive Committee.

6 (B) REMOVAL.—The Federal Cochair-
7 person may be replaced by the Secretary on a
8 vote of no-confidence by $\frac{3}{4}$ of a quorum.

9 (4) NON-FEDERAL COCHAIRPERSON.—

10 (A) IN GENERAL.—A non-Federal Chair-
11 person of the Executive Committee shall be
12 elected on approval by $\frac{3}{4}$ of a quorum.

13 (B) DUTIES.—The non-Federal Chair-
14 person shall—

15 (i) be a voting member of the Execu-
16 tive Committee;

17 (ii) establish the Executive Committee
18 agenda jointly with the Federal Cochair-
19 person; and

20 (iii) lead meetings in the absence of
21 the Federal Cochairperson.

22 (C) REMOVAL.—

23 (i) IN GENERAL.—The non-Federal
24 Cochairperson may be removed by the Sec-

1 retary on a vote of no-confidence by $\frac{3}{4}$
2 of a quorum.

3 (ii) VACANCY.—If the non-Federal
4 Chairperson is removed under clause (i),
5 the vacancy shall be filled in accordance
6 with subparagraph (A).

7 (d) PROGRAM IMPLEMENTATION TEAM.—

8 (1) IN GENERAL.—The Secretary shall establish
9 a Program Implementation Team—

10 (A) administered by a program manager
11 from the Corps of Engineers; and

12 (B) supported by 1 representative of each
13 entity with membership on the Executive Com-
14 mittee that elects to provide a representative.

15 (2) ADDITIONAL STAFF.—To support the goals
16 of the Collaborative Program, the Secretary of the
17 Interior shall provide staff for the Program Imple-
18 mentation Team from—

19 (A) the Bureau of Reclamation;

20 (B) the Bureau of Indian Affairs;

21 (C) the United States Fish and Wildlife
22 Service; or

23 (D) any other appropriate agency of the
24 Department of the Interior.

1 (3) DUTIES.—Under the direction of the Exec-
2 utive Committee, the Program Implementation
3 Team shall—

4 (A) provide administrative support for all
5 Collaborative Program operations;

6 (B) not later than 1 year after the date of
7 enactment of this Act, prepare a long-term plan
8 to carry out the purposes of the Collaborative
9 Program;

10 (C) consistent with the long-term plan,
11 prepare annual revisions, annual work plans,
12 budget requests, and activity and fiscal reports;

13 (D) provide information to the public con-
14 cerning activities of the Collaborative Program
15 and undertake community outreach;

16 (E) collaborate with other efforts relating
17 to the protection and recovery of the silvery
18 minnow and willow flycatcher carried out under
19 other Federal programs and non-Federal pro-
20 grams, including—

21 (i) silvery minnow and willow
22 flycatcher recovery teams under the direc-
23 tion of the United States Fish and Wildlife
24 Service;

1 (ii) Bosque and ecosystem recovery
2 programs under the United States Fish
3 and Wildlife Service and Corps of Engi-
4 neers; and

5 (iii) other related programs;

6 (F) administer project proposal processes;

7 (G) administer contracts and grants, ex-
8 cept for those contracts and grants assigned to
9 the Bureau of Reclamation;

10 (H) ensure that all activities undertaken
11 by the Collaborative Program comply with ap-
12 plicable laws; and

13 (I) undertake such other duties as are as-
14 signed by the Executive Committee and nec-
15 essary to carry out the Collaborative Program.

16 (e) WORKING GROUPS.—

17 (1) IN GENERAL.—The Executive Committee
18 may create working groups to—

19 (A) provide advice to the Executive Com-
20 mittee and the Program Implementation Team;
21 and

22 (B) implement tasks consistent with the
23 purposes described in section 3(b).

24 (2) MEMBERSHIP.—Working groups established
25 under paragraph (1) may consist of—

1 (A) members of the Program Implementa-
2 tion Team; and

3 (B) individuals appointed by, and under
4 the direction of, the Program Implementation
5 Team, including—

6 (i) representatives appointed by the
7 Executive Committee;

8 (ii) signatory members; or

9 (iii) individuals contracted by the Pro-
10 gram Implementation Team.

11 **SEC. 5. COLLABORATIVE PROGRAM ACTIVITIES.**

12 (a) IN GENERAL.—The Secretary and the Secretary
13 of the Interior may—

14 (1) enter into any grants, contracts, cooperative
15 agreements, interagency agreements, or other agree-
16 ments that the Secretary and the Secretary of the
17 Interior determine to be necessary to carry out the
18 Collaborative Program, including interagency agree-
19 ments to transfer funds between agencies within the
20 jurisdiction of the Secretary and the Secretary of the
21 Interior; and

22 (2) accept or provide grants to carry out the
23 Collaborative Program.

24 (b) RESPONSIBILITIES.—In carrying out the pur-
25 poses of the Collaborative Program—

1 (1) the Commissioner of Reclamation may—

2 (A) carry out flow requirements to comply
3 with the Biological Opinion described in section
4 205(b) of the Energy and Water Development
5 Appropriations Act, 2005 (Public Law 108–
6 447; 118 Stat. 2949) or any modifications to
7 the Biological Opinion and other projects relat-
8 ing to water management, including—

9 (i) acquiring interests in land and
10 water to meet minimum flow requirements;

11 (ii) monitoring and gaging flows;

12 (iii) pumping from the Low Flow Con-
13 veyance Channel and other drains and
14 channels to support silvery minnow and
15 willow flycatcher habitat; and

16 (iv) improving monitoring and gaging;

17 (B) consult with the signatory members re-
18 garding opportunities and methods to accom-
19 plish the responsibilities;

20 (C) coordinate implementation of all other
21 activities carried out within the Middle Rio
22 Grande under the jurisdiction of the Bureau of
23 Reclamation with the activities of the Collabo-
24 rative Program to achieve the purposes of the
25 Collaborative Program; and

1 (D) construct fish passages at San Acacia
2 Diversion Dam and at Isleta Diversion Dam;

3 (2) the Secretary of the Army—

4 (A) may carry out and fund additional
5 projects not designated to the Commissioner of
6 Reclamation under paragraph (1), including—

7 (i) actions to induce overbank flooding
8 and creation of backwaters;

9 (ii) salvaging eggs;

10 (iii) improving monitoring and gaging;

11 (iv) performing habitat and ecosystem
12 restoration;

13 (v) regeneration of native vegetation
14 and monitoring of associated water deple-
15 tions;

16 (vi) reconstructing a new San Marcial
17 Railroad bridge and realignment of the
18 river channel;

19 (vii) developing ways to—

20 (I) increase sediment transport
21 through Jemez Canyon Dam, Galisteo
22 Dam, and Cochiti Lake; and

23 (II) address issues of contami-
24 nated sediment;

- 1 (viii) preventing salt cedar encroach-
2 ment in Angostura, Isleta and San Acacia
3 reaches;
- 4 (ix) implementing captive propagation
5 of silvery minnow, including expansion of
6 facilities;
- 7 (x) creating at least 2 new naturalized
8 refugia, 1 of which shall be carried out in
9 partnership with the Bureau of Reclama-
10 tion, United States Fish and Wildlife Serv-
11 ice, and Middle Rio Grande Conservancy
12 District without direct oversight by the
13 Collaborative Program, under the Silvery
14 Minnow Off-Channel Sanctuaries Program
15 as authorized under section 6014 of the
16 Emergency Supplemental Appropriations
17 Act for Defense, the Global War on Ter-
18 ror, and Tsunami Relief, 2005 (Public
19 Law 109–13; 119 Stat. 283);
- 20 (xi) monitoring silvery minnow protec-
21 tion and recovery efforts by conducting
22 surveys of populations and habitat above
23 Cochiti Lake;

1 (xii) developing comprehensive water
2 quality assessments and managing changes
3 in water quality;

4 (xiii) conducting studies and research
5 necessary to define the needs of listed spe-
6 cies; and

7 (xiv) monitoring the effects of activi-
8 ties on listed species;

9 (B) shall implement the decisions of the
10 Executive Committee in performing the activi-
11 ties described in subparagraph (A); and

12 (C) shall coordinate implementation of all
13 other activities carried out within the Middle
14 Rio Grande by the Corps of Engineers with the
15 activities of the Collaborative Program in order
16 to achieve the purposes of the Collaborative
17 Program.

18 (c) LIMITATIONS.—

19 (1) ACQUISITION OF LAND OR WATER.—In car-
20 rying out this Act, the Secretary or the Secretary of
21 the Interior may only acquire interests in land and
22 water.

23 (2) WATER RIGHTS.—Nothing in this Act pre-
24 empts or affects State water law or an interstate
25 compact governing water.

1 (3) COMPLIANCE.—All actions carried out in
2 accordance with this Act shall be in compliance with
3 applicable State, Federal, or tribal law.

4 (4) RIO GRANDE COMPACT.—No action carried
5 out under this Act shall impair the ability of the
6 State to meet the obligations of the State under the
7 Rio Grande compact.

8 (5) STATE LAW.—The Secretary and the Sec-
9 retary of the Interior shall carry out activities under
10 the Collaborative Program consistent with State law.

11 (6) CONSULTATION.—

12 (A) IN GENERAL.—Consultations between
13 governments under this Act shall be carried out
14 between the Secretary or the Secretary of the
15 Interior and tribes prior to initiating actions
16 that would impact tribal land or water rights.

17 (B) CONSENT REQUIREMENT.—No action
18 involving access to, or use of, pueblo or tribal
19 land may be carried out without prior written
20 consent of the affected pueblo or Indian tribe.

21 (7) COLLABORATION.—In carrying out this Act,
22 the Secretary and the Secretary of Interior may col-
23 laborate with or enter into contracts, cooperative
24 agreements, interagency agreements, or other agree-

1 ments with, or accept or provide grants to, tribes
2 that—

3 (A) are signatory members; but

4 (B) are not represented on the Executive
5 Committee.

6 (8) NO EFFECT ON CERTAIN AUTHORITY.—

7 Nothing in this Act diminishes the authority, sov-
8 ereignty, or rights of any person, organization, tribe,
9 or other governmental entity.

10 (9) NO EFFECT ON CERTAIN DUTIES.—

11 (A) IN GENERAL.—Nothing in this Act di-
12 minishes or impairs—

13 (i) the trust relationship or responsi-
14 bility of the Federal Government to any
15 tribe;

16 (ii) the obligation of the Federal Gov-
17 ernment to consult with the tribes on a
18 government-to-government basis; or

19 (iii) the ability of the Federal Govern-
20 ment to fund activities for the benefit of
21 the tribes.

22 (B) FUNDING.—Nothing in this Act re-
23 stricts the Secretary or the Secretary of the In-
24 terior from funding activities in accordance with

1 the Indian trust responsibility of the Federal
2 Government.

3 (10) NO EFFECT ON RESERVOIR OPER-
4 ATIONS.—While this Act provides additional author-
5 ization for the Secretary and the Secretary of the
6 Interior, nothing expands the discretion of the Sec-
7 retary or the Secretary of the Interior with respect
8 to operating reservoir facilities under the jurisdiction
9 of the Secretary or the Secretary of the Interior in
10 the Middle Rio Grande.

11 **SEC. 6. REPORTING.**

12 Not later than 1 year after the date of enactment
13 of this Act, and every 2 years thereafter, the Secretary
14 and the Secretary of the Interior shall submit to the Com-
15 mittee on Environment and Public Works and the Com-
16 mittee on Energy and Natural Resources of the Senate
17 and the Committee on Resources of the House of Rep-
18 resentatives a report that—

19 (1) describes expenditure of appropriated funds
20 and cost-share contributions;

21 (2) describes activities carried out under this
22 Act; and

23 (3) describes compliance with the purposes of
24 this Act.

1 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—

3 (1) IN GENERAL.—There is authorized to be
4 appropriated to the Secretary and the Secretary of
5 the Interior such sums as are necessary to carry out
6 this Act for each of fiscal years 2006 through 2015.

7 (2) NONREIMBURSABLE.—Amounts made
8 available pursuant to paragraph (1) shall be consid-
9 ered nonreimbursable Federal expenditures.

10 (b) COST ALLOCATION.—

11 (1) ACTIVITIES AT FULL FEDERAL EXPENSE.—

12 (A) WATER ACQUISITION.—Water acquisi-
13 tion and the cost of administration for water
14 acquisition and water management by the Bu-
15 reau of Reclamation described in section
16 5(b)(1) shall be carried out at full Federal ex-
17 pense.

18 (B) ADMINISTRATION.—Administration of
19 the Collaborative Program, as described in sec-
20 tion 4(d), including the participation of Federal
21 agencies in the Program Implementation Team,
22 shall be carried out at full Federal expense.

23 (2) COST-SHARE.—

24 (A) IN GENERAL.—Subject to subpara-
25 graph (B), all projects or activities of the Col-
26 laborative Program not described in paragraph

1 (1) that are carried out by the Secretary or the
2 Secretary of the Interior shall require a non-
3 Federal cost-share of 25 percent.

4 (B) LIMITATION.—

5 (i) IN GENERAL.—The total non-Fed-
6 eral share required under subparagraph
7 (A) for all projects during the period of fis-
8 cal years 2006 through 2015 shall be not
9 more than \$30,000,000.

10 (ii) FEDERAL EXPENSE.—On satisfac-
11 tion of the total non-Federal share de-
12 scribed in clause (i)—

13 (I) no further non-Federal share
14 shall be required; and

15 (II) all projects and activities
16 shall be carried out at full Federal ex-
17 pense.

18 (C) CONTRIBUTIONS.—The cost-share
19 under subparagraph (A) may be provided as—

20 (i) in-kind contributions, including
21 participation on the Program Implementa-
22 tion Team or in working groups, the value
23 of which shall be determined by Secretary;
24 or

25 (ii) direct cash contributions.

1 (D) PROGRAMMATIC BASIS.—The amount
2 of the Federal and non-Federal cost-shares
3 shall be determined on—

4 (i) a programmatic, rather than
5 project-by-project, basis; and

6 (ii) a 3-year interval with excess non-
7 Federal cost-share being credited to subse-
8 quent accounting periods.

9 (c) ADMINISTRATIVE COSTS.—Not more than 15 per-
10 cent of amounts made available under subsection (a) shall
11 be used to pay the administrative costs of carrying out
12 the Program Implementation Team established under sec-
13 tion 4(d).

○