

# SENATE BILL REPORT

## SJM 8014

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As Passed Senate, March 10, 1995

**Brief Description:** Petitioning Congress regarding water adjudication.

**Sponsors:** Senators Fraser, Morton, Winsley and Rasmussen.

**Brief History:**

**Committee Activity:** Energy, Telecommunications & Utilities: 2/14/95, 2/16/95 [DP].  
Passed Senate, 3/10/95, 45-0.

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### SENATE COMMITTEE ON ENERGY, TELECOMMUNICATIONS & UTILITIES

**Majority Report:** Do pass.

Signed by Senators Sutherland, Chair; Loveland, Vice Chair; Finkbeiner, Hochstatter and Owen.

**Staff:** David Danner (786-7784)

**Background:** A federal law known as the McCarran Amendment allows a state to join the United States as a defendant in a general water right adjudication. However, in 1993 the U.S. Supreme Court ruled in U.S. v. Idaho that the McCarran Amendment does not require the United States to pay the state any fees to finance the costs of water adjudications.

The federal government is a large claimant of water rights which must be quantified in state general stream adjudications. Moreover, under its trust responsibilities, the federal Bureau of Indian Affairs has participated on behalf of Indian tribes in adjudicating Indian reserved claims.

The fees for adjudicating federal and tribal water claims have so far totalled in the millions of dollars, which have been borne by the state government. Future adjudications will result in similar costs to the state.

**Summary of Bill:** Congress is asked to require federal agencies to pay state water adjudication fees, and to require the Bureau of Indian Affairs to pay state water adjudication fees for Indian reserved claims, to the same extent as other claimants.

Congress is asked to appropriate moneys to reimburse states for the costs incurred in adjudicating federal or Indian reserved water rights claims in general stream adjudications.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Testimony For:** The federal government should pay its fair share of costly water adjudications.

**Testimony Against:** None.

**Testified:** Senator Karen Fraser (pro).

**House Amendment(s):** The statement that suit by the federal government regarding immunity from payment of fees was contrary to the intent of the McCarran amendment is removed.