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Calendar No. 849

106TH CONGRESS, *2d Session* | SENATE | REPORT 106–427

MANCOS WATER CONSERVANCY DISTRICT

SEPTEMBER 28 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2594]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2594) to authorize the Secretary of the Interior to contract with the Mancos Water Conservancy District to use the Mancos Project facilities for impounding, storage, diverting, and carriage of nonproject water for the purpose of irrigation, domestic, municipal, industrial, and any other beneficial purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 3, line 18, strike all of subsection (c).

PURPOSE OF THE MEASURE

The purpose of S. 2594 is to authorize the Secretary of the Interior to enter into Warren Act contracts with the Mancos Water Conservancy District in Colorado to use the Mancos Project facilities for impounding, storage, diverting, and carriage of nonproject water for the purpose of irrigation, domestic, municipal, industrial, and any other beneficial purposes.

BACKGROUND AND NEED

Many federally authorized projects have the ability to use project reservoirs, canals, and ditches for the purpose of impounding, delivering, or carrying non-project waters for the purpose of irrigation and other beneficial uses. The Bureau of Reclamation is authorized by the Warren Act of 1911 (36 Stat. 925) or section 305 of the Reclamation States Emergency Drought Relief Act of 1991 (P.L. 102–250) to make such excess facilities capacity available to third parties. In 1998, the Department of the Interior determined that

projects constructed by the Bureau pursuant to the Water Conservation and Utilization Act of 1939 (WCUA) do not have the authority to use the project resources for this purpose. Contracts for use of excess capacity in WCUA projects which existed as of November 2, 1998 continued in full force and effect until they expired. Such contracts could not be extended by amendment.

The Mancos Project, established in 1941 and completed in 1949, was authorized by the WCUA and provides supplemental irrigation water for the Mancos Valley. Since 1968, the District has operated under contract to carry non-project water through the Project and the carriage of such water has become a normal operational procedure. The District currently has long-term contracts in place for the conveyance of non-project water for irrigation which were contracted before 1992. Short-term contracts for conveyance were recently denied renewal and it is anticipated that long-term contracts will be denied at their expiration.

The carriage of non-project water provides a substantial benefit to the Mancos Project by allowing for a constant flow in the canals and reservoir, thus eliminating the minimum flow problem on outlet works. Lack of non-project carriage would diminish the purpose and functionality of the Project and decrease its historic benefit to the Mancos Valley.

LEGISLATIVE HISTORY

S. 2594 was introduced by Senator Allard on May 18, 2000. The Subcommittee on Water and Power held a hearing on the bill on June 21, 2000. At the business meeting on September 20, 2000, the Committee on Energy and Natural Resources ordered S. 2594, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 20, 2000, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 2594, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 2594, the Committee adopted an amendment to strike subsection (c), which provided that funds received by the United States would be available for expenditure for project O&M. This subsection also provided that funds received by the United States, in excess of the amount needed for O&M, would be applied against project repayment.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation

of the regulatory impact which would be incurred in carrying out S. 2594. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2594, as ordered reported.

EXECUTIVE COMMUNICATIONS

On June 16, 2000, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 2594. These reports had not been received at the time the report on S. 2594 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Commissioner of the Bureau of Reclamation at the Subcommittee hearing follows:

STATEMENT OF ELUID L. MARTINEZ, COMMISSIONER, BUREAU OF RECLAMATION

Thank you for the opportunity to present the Department's views on S. 2594. This bill would authorize the Secretary of the Interior to contract with the Mancos Water Conservancy District (District) to use excess capacity in the Mancos Project in Colorado to impound, store, divert or carry nonproject water for a variety of purposes. Irrigators who benefit from the Mancos Project in Western Colorado have been working to encourage efficient water management on project lands. One means to manage water more efficiently is to allow flexible use of project facilities, so that facilities can be used to transport privately owned or adjudicated water as well as project water for irrigation and other purposes. However, because the Mancos Project was authorized under the Water Conservation and Utilization Act, currently it lacks authority to carry any non-project water. The Administration could support S. 2594 if amended to address four concerns.

First, Section 1(c)(1) allows funds that the United States would receive as payment for the use of its facilities under this bill to be made available for operation and maintenance, without further appropriation of Congress. The Department opposes this provision. The language could mandate direct spending and should be deleted from the bill.

Second, in the event, there is a carriage of nonproject water for municipal and industrial or domestic uses, the carrying charge should include an interest component. Language should be inserted in Section 1(a)(3) to accommodate this concern.

Third, Section 1(c)(2) should be deleted. Under this provision, any funds the United States were to receive under Subsection (a) that were excess to that needed for operation and maintenance would be credited against the Dis-

trict's repayment obligation, a benefit not available to other districts that have contracts with Reclamation for the carriage of non-project water.

Fourth, in keeping with Administration policy, S. 1852 should be amended to make clear that the District shall reimburse Reclamation for the full cost of using Reclamation facilities. Whether at Water Conservation and Utilization Act (WCUA) projects, such as the Mancos Project, or at projects authorized under Reclamation law, the Department generally supports efforts such as this proposal, to enable the use of excess capacity conveyance of non project water, as long as the United States is reimbursed for the full cost of using its facilities. Efforts to allow Reclamation to accommodate non-project water for multiple purposes at Reclamation as well as WCUA projects could increase the efficiency of existing facilities and provide additional flexibility to meet water supply needs.

Thank you for the opportunity to testify. I would be pleased to answer any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 2594, as ordered reported.

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