

Calendar No. 441

108TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 108-231

WATER STORAGE IN THE KENDRICK PROJECT, WYOMING

MARCH 9, 2004.—Ordered to be printed

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

R E P O R T

[To accompany S. 943]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 943) to authorize the Secretary of the Interior to enter into 1 or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project, Wyoming, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. WATER STORAGE CONTRACTS.

(a) DEFINITIONS.—In this Act:

(1) CITY.—The term “city” means—

- (A) the city of Cheyenne, Wyoming;
- (B) the Board of Public Utilities of the city; and
- (C) any agency, public utility, or enterprise of the city.

(2) KENDRICK PROJECT.—The term “Kendrick Project” means the Bureau of Reclamation project on the North Platte River that was authorized by a finding of feasibility approved by the President on August 30, 1935, and constructed for irrigation and electric power generation, the major features of which include—

- (A) Seminoe Dam, Reservoir, and Powerplant; and
- (B) Alcova Dam and Powerplant.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) STATE.—The term “State” means the State of Wyoming.

(b) CONTRACTS.—

(1) IN GENERAL.—The Secretary may enter into 1 or more contracts with the city for annual storage of the city’s water for municipal and industrial use in Seminoe Dam and Reservoir of the Kendrick Project.

(2) CONDITIONS.—

- (A) TERM; RENEWAL.—A contract under paragraph (1) shall—
 - (i) have a term of not more than 40 years; and

(ii) may be renewed on terms agreeable to the Secretary and the city, for successive terms of not more than 40 years per term.

(B) REVENUES.—Notwithstanding the Act of May 9, 1938 (52 Stat. 322, chapter 187; 43 U.S.C. 392a)—

(i) any operation and maintenance charges received under a contract executed under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project; and

(ii) any other revenues received under a contract executed under paragraph (1) shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

(C) EFFECT ON EXISTING CONTRACTORS.—A contract under paragraph (1) shall not adversely affect the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.

2. Amend the title so as to read: “A bill to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city’s water in the Kendrick Project, Wyoming.”.

PURPOSE OF THE MEASURE

The purpose of S. 943 is to authorize the Secretary of the Interior to enter into one or more contracts with the city of Cheyenne, Wyoming, for the storage of the city’s water in the Kendrick Project, Wyoming.

BACKGROUND AND NEED

The Kendrick Project (formerly Casper-Alcova), located in Carbon and Natrona Counties in Central Wyoming, provides water from the North Platte River for irrigation and electrical power generation. Major features of the project include: Seminoe Dam, Reservoir, and Powerplant; and Alcova Dam, Reservoir, and Powerplant. The city of Cheyenne, Wyoming, through its Board of Public Utilities, has developed a water supply system, a component of which involves storage at Seminoe Reservoir.

In 1983, the Bureau of Reclamation and the city of Cheyenne entered into an Interim Water Storage Contract which provided the city with 10,000 acre feet of storage space at Seminoe Reservoir. This agreement allowed the city to store water for use in the spring and summer months to compensate for water that the city released during winter months to fulfill minimum flow requirements for fish habitat. The original agreement was for a term of fifteen years, with the option for a five-year renewal. The agreement also provided that the city, like other Kendrick Project users, would pay a reasonable sum for storage rights. The original agreement and the five-year extension have now expired. Since the original agreement, the Bureau has only given the city one-year storage contracts. This legislation clarifies the authority of the Bureau of Reclamation to enter into long-term contracts with the city of Cheyenne for the storage of the city’s water for municipal and industrial use in Seminoe Reservoir.

LEGISLATIVE HISTORY

S. 943 was introduced by Senator Enzi on April 29, 2003. The Water and Power Subcommittee held a hearing on S. 943 on October 15, 2003. S. Hrg. 108–271. At the business meeting on February 11, 2004, the Committee on Energy and Natural Resources

ordered S. 943, favorably reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATIONS AND TABULATIONS OF VOTES

The Committee on Energy and Natural Resources, in open business session on February 11, 2004, by a unanimous vote of a quorum present, recommends that the Senate pass S. 943, if amended as described herein.

The rollcall vote on reporting the measure was 23 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Domenici	
Mr. Nickles	
Mr. Craig	
Mr. Campbell *	
Mr. Thomas	
Mr. Alexander	
Ms. Murkowski	
Mr. Talent	
Mr. Burns	
Mr. Smith *	
Mr. Bunning	
Mr. Kyl *	
Mr. Bingaman	
Mr. Akaka	
Mr. Dorgan *	
Mr. Graham *	
Mr. Wyden *	
Mr. Johnson *	
Ms. Landrieu *	
Mr. Bayh *	
Mrs. Feinstein *	
Mr. Schumer *	
Ms. Cantwell	

* Indicates voted by proxy.

COMMITTEE AMENDMENTS

During the consideration of S. 943, the Committee adopted an amendment in the nature of a substitute to address the concerns raised by the administration during the October 15, 2003 Water and Power Subcommittee hearing. The amendment clarifies that it is the city of Cheyenne's water that will be stored under the contract, addresses the disposition of revenues received, and makes other technical changes. The amendment is further described in the section-by-section.

SECTION-BY-SECTION ANALYSIS

Section 1(a) defines key terms used in the Act.

Subsection (b)(1) allows the Secretary to enter into contracts with the city of Cheyenne, Wyoming for annual storage of the city's water for municipal and industrial use in Seminole Dam and Reservoir.

Subsection (b)(2) limits the contract term to no more than 40 years and sets parameters for contract renewal.

Subsection (b)(2)(B) provides for the disposition of revenues received under the contract. Specifically, operation and maintenance charges received under a contract executed under paragraph (1) are to be credited against applicable operation and maintenance costs of the Kendrick Project. Any other revenues received under such a contract shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

Subsection (b)(2)(C) of the bill states that the contract shall not adversely affect the Kendrick Project, any existing contractor, or any existing Reclamation contractor on the North Platt River System.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 8, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 943, a bill to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

S. 943—A bill to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming

S. 943 would authorize the Secretary of the Interior, through the Bureau of Reclamation, to renew a water storage contract with the city of Cheyenne, Wyoming, for the storage of the city's municipal and industrial water. The term of this and subsequent contracts would be limited to 40 years.

CBO estimates that implementing S. 943 would have no significant impact on the federal budget. Currently, the bureau provides water storage services under a temporary one-year water storage contract to the city of Cheyenne through the Kendrick Project on the North Platte River. The temporary contract has the same terms as the expired contract. Under the temporary contract, the city makes an annual payment of \$70,000 to the federal government. Under S. 943, the city would negotiate a contract with the federal government for water storage services. Under that contract, the bureau expects that the city would make an annual payment of about \$53,000 to the federal government. CBO estimates that enacting S.

943 would decrease offsetting receipts (a form of direct spending), but the loss of receipts would be less than \$500,000 over the 2005–2014 period.

S. 943 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Julie Middleton. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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. 943.

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. 943, as ordered reported.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF JOHN W. KEYS III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

My name is John Keys and I am the Commissioner of the Bureau of Reclamation. I appreciate the opportunity to provide the Administration's views on S. 943, legislation to authorize the Secretary of the Interior to enter into one or more contracts with the City of Cheyenne, Wyoming, for the storage of water in the Kendrick Project in the State of Wyoming.

Madam Chairman, the Department could support S. 943 subject to modifications recommended in this statement.

The Bureau of Reclamation has several dams and reservoirs located on the North Platte River in Wyoming. The North Platte River System is operated to optimize irrigation and power benefits. To accomplish these activities, vacant space becomes available in Seminoe Reservoir as water is released to other downstream Reclamation reservoirs.

By enacting S. 943, the Secretary of the Interior would be authorized to enter into long-term contracts with the City of Cheyenne to store water in Seminoe Reservoir for municipal and industrial use.

The Department does not support S. 943 as drafted because it is vague regarding whose water is to be stored in Seminoe Reservoir and the disposition of revenues received. To provide clarity, the Department recommends the

amendment attached to my statement be adopted by the Committee.

Thank you for the opportunity to appear before you today. To assist the Subcommittee in understanding the modifications offered here today, I am including a copy of the entire bill with the additions and deletions. Again, Madam Chairman, with the above modifications, the Department could support this legislation.

ATTACHMENT: PROPOSED REVISIONS

1. Modify the Introduction to read: “To authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the City’s water in the Kendrick Project, Wyoming.”

2. Modify Section 1(a)(2) to read:

“(2) KENDRICK PROJECT.—The term ‘Kendrick Project’ shall mean the Bureau of Reclamation project on the North Platte River, authorized by a finding of feasibility approved by the President on August 30, 1935, constructed for irrigation and electric power generation whose major features include Seminoe Dam, Reservoir, and Powerplant; and Alcova Dam, and Powerplant.”

3. Modify Section 1(b) and (c) to read:

“(b) CONTRACTS.—The Secretary is authorized to enter into one or more contracts with the City for annual storage of the City’s water for municipal and industrial use in Seminoe Dam and Reservoir of the Kendrick Project.

“(c) CONDITIONS.—

“(1) TERM; RENEWAL.—Any contract under subsection (b) shall—

“(A) have a term of not to exceed 40 years; and

“(B) may be renewed upon terms mutually agreeable to the Secretary and the City, for successive periods not to exceed 40 years each.

“(2) REVENUES.—Without regard to the Act of May 9, 1938, (52 Stat. 322; U.S.C. § 393a), the revenues received under any contract executed pursuant to this section shall be credited as follows: All operation and maintenance charges shall be credited against applicable operation and maintenance costs of the Kendrick Project; all remaining revenues shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

“(3) IMPACTS TO EXISTING CONTRACTORS.—Contracts under subsection (c) shall not negatively impact the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.”

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. 943, as ordered reported.

