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TUMALO WATER CONSERVATION PROJECT ACT OF 2007

JUNE 28, 2007.—Ordered to be printed

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

R E P O R T

[To accompany S. 1037]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1037) to authorize the Secretary of the Interior to assist in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 1037 is to authorize the Secretary of the Interior to assist in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon.

BACKGROUND AND NEED

The Tumalo Irrigation District (TID or District), located near Bend, Oregon, serves 635 land owners on approximately 8,000 irrigated acres with over 80 miles of canals, laterals, and ditches. In March 2005, TID completed its Bend Feed Canal Project (authorized by P.L. 106-496) and now seeks to begin its larger Water Conservation Project (Project). The goals of the Project are to enhance the flows in the middle basin of the Deschutes River, a major tributary to the Columbia River in Oregon, between Lake Billy Chinook and the City of Bend, and to eliminate water loss, enhance public safety, and conserve energy.

The project will pipe about 6 miles of open canals; enhance pressurized water to TID irrigators (in lieu of pumping systems) even in drought years; and provide in-stream flow benefits for Tumalo

Creek and the Deschutes River. Although historically productive for trout and anadromous fisheries, the Middle Deschutes River has recently experienced reduced seasonal flows as low as 30 cubic feet per second (cfs). TID's goal for the Middle Deschutes basin is to achieve flows of 250 cfs, and the District estimates that the Project will provide 20 cfs in water savings for an in-stream transfer in Tumalo Creek and the Deschutes River. The total estimated cost associated with the Project is \$16 million.

LEGISLATIVE HISTORY

S. 1037 was introduced on March 29, 2007 by Senator Smith for himself and Senator Wyden, and referred to the Committee on Energy and Natural Resources. The Water and Power Subcommittee held a hearing on S. 1037 on April 25, 2007. At the business meeting on May 23, 2007, the Committee on Energy and Natural Resources ordered S. 1037 favorably reported.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business meeting on May 23, 2007, by voice vote of a quorum present, recommends that the Senate pass S. 1037.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 sets forth definitions.

Section 3(a) authorizes the Secretary to participate in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Oregon, in cooperation with the District.

Section 3(b) requires that the Federal share of the total cost of the Project be 25 percent, nonreimbursable to the United States, and credits toward the non-Federal share of the Project any amounts that the District provides toward the design, planning, and construction before the date of enactment of this Act.

Section 3(c) requires that the District hold title to any facilities constructed under the Act.

Section 3(d) requires that the District pay the operation and maintenance costs of the Project.

Section 3(e) declares that any assistance provided under the Act shall not be considered to be a supplemental or additional benefit under Federal reclamation law.

Section 4 authorizes \$4,000,000 to be appropriated for the Federal share of the cost of the Project.

Section 5 declares that the authority in the Act expires 10 years after the date of enactment.

COST AND BUDGETARY CONSIDERATIONS

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

JUNE 1, 2007.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1037, the Tumalo Water Conservation Project Act of 2007.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 1037—Tumalo Water Conservation Project Act of 2007

Summary: S. 1037 would authorize the Secretary of the Interior to participate in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon. The bill would authorize the appropriation of \$4 million for that purpose, and CBO estimates that implementing S. 1037 would cost \$4 million over the 2008–2012 period. Enacting the bill would have no effect on direct spending or revenues.

S. 1037 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs incurred by the Tumalo Irrigation District would result from complying with conditions of federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1037 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	1	1	1	1	0
Estimated Outlays	1	1	1	1	0

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted before the start of fiscal year 2008 and that the authorized funding will be provided over the 2008–2011 period.

S. 1037 would authorize the Secretary of the Interior to participate in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon. Based on information from the Bureau of Reclamation, CBO expects that this work would be completed over four or five years.

Under the legislation, the federal share of the cost of the project would be 25 percent, and federal funds would not be available for operation and maintenance of the project. Assuming appropriation of the authorized amounts, CBO estimates that implementing the legislation would cost \$4 million over the 2008–2012 period.

Intergovernmental and private-sector impact: S. 1037 contains no intergovernmental or private-sector mandates as defined in UMRA. Any costs that the Tumalo Irrigation District might incur, includ-

ing matching funds, would result from complying with conditions of federal assistance.

Estimate prepared by: Federal Costs: Tyler Kruzich; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Amy Petz.

Estimate 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. 1037. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant responsibilities on private individuals and business.

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. 1037.

EXECUTIVE COMMUNICATION

The testimony provided by the Department of the Interior at the Subcommittee hearing on S. 1037 follows:

STATEMENT OF ROBERT JOHNSON, COMMISSIONER, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

I am Robert Johnson, Commissioner of the Bureau of Reclamation. I appreciate the opportunity to provide the Department's views on S. 1037, legislation to authorize the Secretary to participate in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon. The Department cannot support S. 1037.

The Tumalo Irrigation District (District) and the facilities in question are not part of a Reclamation project. During the 1990's the District did have a repayment contract for rehabilitation of Crescent Lake Dam. The District satisfied its repayment obligation to the United States in 1998, and holds title to all project facilities.

The Tumalo Irrigation District Water Conservation Project (Project) would convert approximately 6 miles of open canal in the District into a pipeline. It is Reclamation's understanding that the Project, known locally as the Tumalo Feed Canal pipeline, would conserve up to 20 cubic feet per second (cfs) of water for instream use. The Administration supports the objective of the District to conserve water and to improve instream flows while not diminishing the amount of water available for agricultural uses. Furthermore, we recognize the improvements made in S. 1037 over legislation introduced in the previous Congress.

S. 1037 authorizes the Secretary to participate in the planning, design, and construction of the Project and provides authorization for \$4.0 million to be appropriated for

the Federal share of the Project. Project sponsors anticipate the Federal share of the Project would be made in the form of a grant; however, the language in Section 3(a)(1) does not clearly give the Secretary such authority.

Most importantly, the Department is concerned that use of Reclamation funds on non-Reclamation projects would adversely impact water projects which Congress has charged Reclamation with operating and maintaining. Reclamation activities are targeted to perform essential functions at Federal projects, such as security, operations and maintenance (O&M), resource management, dam safety, and construction.

As conceived, the District's water conservation project may be ideally suited to compete for funds within the Department of the Interior's existing water conservation programs like the Water 2025 Program. Through such conservation programs, local entities develop innovative on-the-ground solutions to water supply problems with financial assistance from Reclamation. However, because of the reasons stated above, the Department cannot support the legislation.

This concludes my testimony. I would be pleased to answer any questions.

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. 1037, as ordered reported.

