

EAST BENCH IRRIGATION DISTRICT WATER CONTRACT EXTENSION ACT

JUNE 15, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

[To accompany S. 997]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (S. 997) to authorize the Secretary of the Interior to extend a water contract between the United States and the East Bench Irrigation District, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 997 is to authorize the Secretary of the Interior to extend a water contract between the United States and the East Bench Irrigation District.

BACKGROUND AND NEED FOR LEGISLATION

Congress established what is now the Bureau of Reclamation (Reclamation) in 1902 to build water infrastructure throughout the West. To this day, Reclamation's water projects, including over 600 dams and reservoirs, play a significant role in providing a reliable source of water and power for irrigated agriculture and rural and urban communities across the 17 western states.

One of these projects is the Clark Canyon Dam and Reservoir, located in southwestern Montana. This federal project annually supplies irrigation water for 28,000 acres within the East Bench Irrigation District (EBID). These water deliveries are pursuant to a contract between the federal government and the EBID. This contract was executed in 1958 and expired on December 31, 2005. Subsequent federal appropriations acts have extended the 1958 con-

tract for two year durations. Since Reclamation cannot extend the contract administratively, S. 997 extends the 1958 contract until December 31, 2013.

Such Congressional contract extensions are not common, but have occurred when specific federal and state statutes and actions delay administrative contract renewals. In this case, Montana Code Section 85–7–1957 requires Montana’s District Court to issue a decree before any new contract execution can take place.

In 2006, the EBID filed a petition with the Montana court to confirm the execution of a new contract between EBID and Reclamation. A third party filed an objection to the new contract, complaining that it allowed for irrigation on more acres than was originally planned for and that the party’s water rights may be at risk if the new contract is confirmed. The Montana court has yet to set a trial date to resolve the litigation. Since Montana state law requires a state district court judge to “confirm” these types of contracts and because confirmation has been delayed due to the legal challenge, the interim 2006 contract is not officially binding on Reclamation.

For these reasons, S. 997 provides EBID water certainty through an extension of the 1958 contract until December 31, 2013, or when the Montana court allows for new long-term contract execution. The legislation does not prejudice the state court’s deliberations.

COMMITTEE ACTION

S. 997 was introduced on May 12, 2011, by Senator Jon Tester (D-MT). On November 2, 2011, the bill passed the Senate by unanimous consent. The bill was then referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On June 6, 2012, the Subcommittee held a hearing on the bill. On June 7, 2012, the Full Resources Committee met to consider S. 997. The Subcommittee on Water and Power was discharged by unanimous consent. No amendments were offered to the bill and the bill was then adopted and ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

S. 997—A bill to authorize the Secretary of the Interior to extend a water contract between the United States and the East Bench Irrigation District

S. 997 would authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to extend the water contract between the United States and the East Bench Irrigation District for four years or until a new long-term contract is executed, whichever is earlier. Based on information from the Bureau of Reclamation, CBO estimates that enacting the legislation would have no impact on the federal budget. Enacting S. 997 would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply.

The Bureau of Reclamation supplies irrigation water from the Clark Canyon Dam and Reservoir project to the East Bench Irrigation District under an interim contract negotiated in 2006 after the original contract expired. When confirmed by a Montana district court, the 2006 contract will become the long-term contract. Payments to the federal government under the 2006 contract are about \$115,000 annually, including reimbursement for operations and maintenance costs. Enacting S. 997 would not affect those annual payments.

S. 997 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.

On August 3, 2011, CBO transmitted a cost estimate for S. 997, a bill to authorize the Secretary of the Interior to extend a water contract between the United States and the East Bench Irrigation District, as ordered reported by the Senate Committee on Energy and Natural Resources on July 14, 2011. The two pieces of legislation and CBO's cost estimates are the same.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information from the Bureau of Reclamation, CBO estimates that enacting the legislation would have no impact on the federal budget. Enacting S. 997 would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Secretary of the Interior to extend a water contract between the United States and the East Bench Irrigation District.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e),

9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

